

1979
REVISED CODE
of
WASHINGTON



Volume 9
1980 Supplement

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1979
REVISED CODE
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WASHINGTON

1980 SUPPLEMENT

I. SCOPE OF SUPPLEMENT

This volume supplements the 1979 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 1980 regular session of the forty-sixth legislature.
2. Measures adopted at the 1979 state general election.
3. Rules of Court promulgated prior to June 1, 1980.
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.

- 68 Art. 2 § 12 Sessions, when—Duration.
69 Art. 2 § 13 Limitation on members holding
office in this state.
70 Art. 8 § 10 Residential energy conservation.

THE CONSTITUTION OF THE STATE OF WASHINGTON

AMENDMENT 68

Art. 2 § 12 SESSIONS, WHEN—DURATION.

(1) Regular Sessions. A regular session of the legislature shall be convened each year. Regular sessions shall convene on such day and at such time as the legislature shall determine by statute. During each odd-numbered year, the regular session shall not be more than one hundred five consecutive days. During each even-numbered year, the regular session shall not be more than sixty consecutive days.

(2) Special Legislative Sessions. Special legislative sessions may be convened for a period of not more than thirty consecutive days by proclamation of the governor pursuant to Article III, section 7 of this Constitution. Special legislative sessions may also be convened for a period of not more than thirty consecutive days by resolution of the legislature upon the affirmative vote in each house of two-thirds of the members elected or appointed thereto, which vote may be taken and resolution executed either while the legislature is in session or during any interim between sessions in accordance with such procedures as the legislature may provide by law or resolution. The resolution convening the legislature shall specify a purpose or purposes for the convening of a special session, and any special session convened by the resolution shall consider only measures germane to the purpose or purposes expressed in the resolution, unless by resolution adopted during the session upon the affirmative vote in each house of two-thirds of the members elected or appointed thereto, an additional purpose or purposes are expressed. The specification of purpose by the governor pursuant to Article III, section 7 of this Constitution shall be considered by the legislature but shall not be mandatory.

(3) Committees of the Legislature. Standing and special committees of the legislature shall meet and conduct official business pursuant to such rules as the legislature may adopt. [1979 Substitute Senate Joint Resolution No. 110. Approved November 6, 1979.]

AMENDMENT 69

Art. 2 § 13 LIMITATION ON MEMBERS HOLDING OFFICE IN THE STATE. No member of the legislature, during the term for which he is elected, shall be appointed or elected to any civil office in the state, which shall have been created during the term for which he was elected. Any member of the legislature who is appointed or elected to any civil office in the state, the emoluments of which have been increased during his legislative term of office, shall be compensated for the initial term of the civil office at the level designated prior to the increase in emoluments. [1979 Senate Joint Resolution No. 112. Approved November 6, 1979.]

AMENDMENT 70

Art. 8 was amended by adding the following section:

Art. 8 § 10 RESIDENTIAL ENERGY CONSERVATION. Notwithstanding the provisions of section 7 of this Article, until January 1, 1990 any county, city, town, quasi municipal corporation, municipal corporation, or political subdivision of the state which is engaged in the sale or distribution of energy may, as authorized by the legislature, use public moneys or credit derived from operating revenues from the sale of energy to assist the owners of residential structures in financing the acquisition and installation of materials and equipment for the conservation or more efficient use of energy in such structures. Except as provided in section 7 of this Article, an appropriate charge back shall be made for such extension of public moneys or credit and the same shall be a lien against the residential structure benefited. Except as to contracts entered into prior thereto, this amendment to the state Constitution shall be null and void as of January 1, 1990 and shall have no further force or effect after that date. [1979 Substitute Senate Joint Resolution No. 120. Approved November 6, 1979.]

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(As of May 31, 1980)

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ARTICLE XI. MISCELLANEOUS RULES

Rule 1101 Applicability of rules.

(a) **Courts Generally.** Except as otherwise provided in section (c), these rules apply to all actions and proceedings in the courts of the state of Washington. The terms "judge" and "court" in these rules refer to any judge of any court to which these rules apply or any other officer who is authorized by law to hold any hearing to which these rules apply.

(b) **Law With Respect to Privilege.** The law with respect to privileges applies at all stages of all actions, cases, and proceedings.

(c) **When Rules Need Not Be Applied.** The rules (other than with respect to privileges) need not be applied in the following situations:

(1) *Preliminary Questions of Fact.* The determination of questions of fact preliminary to admissibility of evidence when the issue is to be determined by the court under Rule 104(a).

(2) *Grand Jury.* Proceedings before grand juries and special inquiry judges.

(3) *Miscellaneous Proceedings.* Proceedings for extradition or rendition; detainer proceedings under RCW 9.100; preliminary determinations in criminal cases; sentencing, or granting or revoking probation; issuance of warrants for arrest, criminal summonses, and search warrants; proceedings with respect to release on bail or otherwise; contempt proceedings in which the court may act summarily; habeas corpus proceedings; small claims courts; supplemental proceedings under RCW 6.32; coroners' inquests; Juvenile Court hearings on declining jurisdiction under RCW 13.40.110; disposition hearings in juvenile court; dispositional determinations under the Uniform Alcoholism and Intoxication Treatment Act, RCW 70.96A; and dispositional determinations under the civil commitment act, RCW 71.05. [Amended December 13, 1979, effective January 1, 1980; adopted December 19, 1978, effective April 2, 1979.]

Comment: Federal Rule 1101 has been modified by deleting references to matters heard only in federal court and by adding references to certain proceedings heard in the state courts. The rule conforms substantially to previous Washington practice.

Section (a). The rules of evidence apply generally to civil and criminal proceedings, including mental commitment proceedings, reference hearings, and juvenile court fact-finding and adjudicatory hearings. See RCW 71.05.250, RCW 71.05.310, MPR 3.4, RAP 16.12, JuCR 3.7, and JuCR 7.11. Juvenile court hearings on whether to decline jurisdiction are not excused from the operation of the rules. These hearings have a substantial impact upon the case and deserve the formality of evidentiary rules. Cf. *In re Harbert*, 85 Wn.2d 719, 538 P.2d 1212 (1975).

The words "judge" and "court" are used interchangeably throughout the rules and refer to a judge, judge pro tempore, commissioner, or any other person authorized to hold a hearing to which the rules apply.

Section (b). The law concerning privileged communications applies to all proceedings, including those listed in section (c).

Subsection (c)(1). This portion of the rule is a restatement of a similar provision in Rule 104. The rules need not be applied, for example, at a hearing on a motion to suppress evidence. *United States v. Matlock*, 415 U.S. 164 (1974); Am. Jur. 2d, Federal Rules of Evidence (New Topic Service 1975). The rule, like all of the other rules, does not attempt to specify the situations in which due process would require a full evidentiary hearing. That determination is made by reference to constitutional law.

In the absence of a constitutional requirement, the rule still does not prevent the court from requiring a certain measure of reliability with respect to the admission of evidence in the proceedings specified in section (c). The court should have the discretion to require an appropriate level of formality.

Subsection (c)(2). The statutes contain special evidentiary provisions for grand juries and inquiry judges. See RCW 10.27.120, .130, .140, and .170. Although there are no Washington cases directly in point, the majority view is that the validity of a grand jury indictment may not be challenged on the basis of insufficient or incompetent evidence unless none of the witnesses was competent. Annot., 37 A.L.R.3d 612 (1971); Annot., 39 A.L.R.3d 1064 (1971).

Subsection (c)(3). Proceedings with respect to extradition, rendition, and detainers are essentially administrative matters, and the rules of evidence have traditionally not applied. *Gibson v. Beall*, 249 F.2d 489 (D.C. Cir. 1957); *United States v. Flood*, 374 F.2d 554 (2d Cir. 1967).

The view that the rules of evidence do not apply to preliminary determinations in criminal cases is consistent with the Superior Court Criminal Rules. See, e.g., CrR 3.2(i), relating to hearings on pretrial release. The rule refers to "determinations" rather than to "examinations," the federal rule's terminology. This change was made to clarify the intent to relax the rules of evidence with respect to all preliminary matters, not just at hearings in which the accused gives testimony.

The normal rules of evidence do not apply to hearings with respect to sentencing or probation. *State v. Short*, 12 Wn. App. 125, 528 P.2d 480 (1974); *State v. Shannon*, 60 Wn.2d 883, 376 P.2d 646 (1962); *State v. Kuhn*, 80 Wn.2d 648, 503 P.2d 1061 (1972). As to sentencing proceedings in cases involving the death penalty, see also RCW 10.94-.020. As to search warrants, see CrR 2.3(c). The rules do not apply to hearings with respect to pretrial release. CrR 3.2(i).

The provision regarding contempt applies to contempt committed in the presence of the court as defined by RCW 7.20.030.

The rule clarifies the law with respect to habeas corpus hearings. A statute, RCW 7.36.120, directs the court to hear and determine the matter "in a summary way." The Supreme Court has held that the trial court may thus determine factual matters by reference to affidavits. *Little v. Rhay*, 68 Wn.2d 353, 413 P.2d 15 (1966). Later, a division of the Court of Appeals held that such affidavits should be considered only to assist in formulating the issues of fact and not in themselves to determine disputed questions of material fact. *Little v. Rhay*, 8 Wn. App. 725, 509 P.2d 92 (1973). A dissenting opinion argued that the majority opinion nullified the statute and disregarded earlier decisions of the Supreme Court. Rule 1101 adopts the approach taken by the earlier Supreme Court decisions. This is contrary to Federal Rule 1101, which makes the rules of evidence applicable to federal habeas corpus proceedings, but the underlying federal statute requires testimony to be taken. *Walker v. Johnson*, 312 U.S. 275 (1941).

The rules do not apply to small claims courts, supplemental proceedings, or to coroners' inquests, primarily because the purposes of

these proceedings would be frustrated by strictly imposing rules of evidence. As a practical matter, the rules have not been applied to these proceedings in the past.

Fact-finding and adjudicatory hearings in juvenile court are conducted in accordance with the rules of evidence. JuCR 3.7 and JuCR 7.11. Once the facts have been determined, however, the appropriate form of disposition is determined with less formality. The situation is analogous to the distinction between a criminal trial and sentencing. Rule 1101 thus authorizes a relaxation of the rules of evidence for disposition hearings in juvenile court. A corresponding relaxation of the rules is authorized for dispositional determinations under the Uniform Alcoholism and Intoxication Treatment Act, RCW 70.96A, and the civil commitment act, RCW 71.05.

Part III

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TITLE 12 APPELLATE COURT DECISION AND PROCEDURE AFTER DECISION

Rule 12.5 Mandate.

(a) **Mandate Defined.** A "mandate" is the written notification by the clerk to the trial court and to the parties of an appellate court decision terminating review. No mandate issues for an interlocutory decision.

(b) **When Mandate Issued by Court of Appeals.** The clerk of the Court of Appeals issues the mandate for a Court of Appeals decision terminating review upon stipulation of the parties that no motion for reconsideration or petition for review will be filed. In the absence of that stipulation, and except to the extent the mandate is stayed as provided in Rule 12.6, the clerk issues the mandate:

(1) 20 days after the decision is filed, unless (i) a motion for reconsideration of the decision has been earlier filed, (ii) a petition for review to the Supreme Court has been earlier filed, or (iii) the decision is a ruling of the commissioner or clerk and a motion to modify the ruling has been earlier filed.

(2) If a motion for reconsideration is timely filed and denied, 30 days after filing the order denying the motion for reconsideration, unless a petition for review to the Supreme Court has been earlier filed.

(3) If a petition for review has been timely filed and denied by the Supreme Court, upon denial of the petition for review.

(c) **When Mandate Issued by Supreme Court.** The Clerk of the Supreme Court issues the mandate for a Supreme Court decision terminating review upon stipulation of the parties that no motion for reconsideration will be filed. In the absence of that stipulation, and except to the extent the mandate is stayed as provided in Rule 12.6, the clerk issues the mandate:

(1) 20 days after the decision is filed, unless (i) a motion for reconsideration has been earlier filed, or (ii) the decision is a ruling of the commissioner or clerk and a motion to modify the ruling has been earlier filed.

(2) If a motion for reconsideration is timely filed and denied, upon filing the order denying the motion for reconsideration. [Amended December 18, 1979, effective June 7, 1979; adopted January 28, 1976, effective July 1, 1976.]

Comment: The appellate court's directions to the lower court are known by various names. The statutes use the word *judgment*. RCW 2.04.160, 2.04.170. Some Rules on Appeal say *mandate* (ROA 1-59), but others say *remittitur* (ROA 1-2(g)). Rule 12.5 settles on the word *mandate* to conform to federal practice.

Rule 12.5 does not change existing practice, except that the rule anticipates that a motion may be filed for reconsideration of a Supreme Court order terminating review and the mandate issues in 20 days if a motion for reconsideration is not filed. See comment 12.4.

TITLE 13 REVIEW BY THE SUPREME COURT OF COURT OF APPEALS DECISION

Rule 13.1 Method of seeking review.

(a) **One Method of Seeking Review.** The only method of seeking review by the Supreme Court of decisions of the Court of Appeals is review by permission of the Supreme Court, called "discretionary review."

(b) **Writ Procedure Superseded.** The procedure for seeking review of decisions of the Court of Appeals established by these rules supersedes the review procedure formerly available by extraordinary writs of review, certiorari, mandamus, prohibition, and other writs formerly considered necessary and proper to the complete exercise of appellate and revisory jurisdiction of the Supreme Court. [Amended December 18, 1979, effective June 7, 1979; adopted January 28, 1976, effective July 1, 1976.]

Comment: The terminology and principles established by Rule 2.1 are made applicable to review of decisions of the Court of Appeals by the Supreme Court. See generally comment 2.1.

Rule 13.2 Decisions reviewed as a matter of right. [Rescinded December 18, 1979, effective June 7, 1979; adopted January 28, 1976, effective July 1, 1976.]

Rule 13.3 Decisions reviewed as a matter of discretion.

(a) **What May Be Reviewed.** A party may seek discretionary review by the Supreme Court of any decision of the Court of Appeals which is not a ruling including:

(1) **Decision Terminating Review.** Any decision terminating review.

(2) **Interlocutory Decision.** Subject to the restrictions imposed by Rule 13.5(b), any interlocutory decision, including but not limited to (i) a decision denying a motion to modify a ruling of the commissioner or clerk which denies a motion for discretionary review, and (ii) if the clerk refers a motion for discretionary review to the court, a decision by the court which denies a motion for discretionary review.

(b) **Decision Terminating Review.** A party seeking review of a Court of Appeals decision terminating review must first file a motion for reconsideration under Rule 12.4 and must file a "petition for review" as provided in Rule 13.4.

(c) **Interlocutory Decision.** A party seeking review of an interlocutory decision of the Court of Appeals must file a "motion for discretionary review" as provided in Rule 13.5.

(d) **Incorrect Designation of Motion or Petition.** A motion for discretionary review of a decision terminating review will be given the same effect as a petition for review. A petition for review of an interlocutory decision will be given the same effect as a motion for discretionary review.

(e) **Ruling by Commissioner or Clerk.** A ruling by a commissioner or clerk of the Court of Appeals is not subject to review by the Supreme Court. The decision of the Court of Appeals on a motion to modify a ruling by the commissioner or clerk may be subject to review as provided in this title. [Amended December 18, 1979, effective June 7, 1979; adopted January 28, 1976, effective July 1, 1976.]

References:

Rule 12.3, *Forms of Decision*;

Rule 17.3, *Content of Motion*, (b) *Motion for discretionary review*.

Comment: Generally, Rule 13.3 closely parallels Rule 2.3, governing discretionary review of a trial court decision. However, Title 13 provides two methods of seeking discretionary review of the Court of Appeals. The appropriate method is determined by the nature of the decision sought to be reviewed.

(a) **What may be Reviewed.** The rule states the general rule that decisions not appealable are subject to discretionary review. The two classes of decisions subject to discretionary review are set forth. The rule does not apply to review of rulings of a commissioner or clerk. Review of a ruling is obtained under Rule 17.7.

(b) **Decision Terminating Review.** Rule 13.3(b) retains the petition for review as the method of seeking discretionary review of a decision terminating review. The conditions governing acceptance of review of a decision terminating review differ from those governing acceptance of review of an interlocutory decision. These differences lend themselves to separate procedural treatment. See Rules 13.4 and 13.5.

(c) **Interlocutory Decision.** Interlocutory decisions were reviewable by extraordinary writ under the old rules. ROA II-4. Under these rules, review of an interlocutory decision is sought by a motion for discretionary review under Rule 13.5.

(d) **Incorrect Designation of Motion or Petition.** It may be difficult in some cases to determine whether a decision is a decision terminating review subject to review by petition for review, or an interlocutory decision subject to review by a motion for discretionary review. Review will not be denied solely because a party chose the wrong method for seeking discretionary review.

Rule 13.6 Acceptance of review. The Supreme Court accepts discretionary review of a decision of the Court of

Rule 13.6

Appeals by granting a motion for discretionary review or by granting a petition for review. [Amended December 18, 1979, effective June 7, 1979; adopted January 28, 1976, effective July 1, 1976.]

Comment: The rule makes the terminology established by Rule 6.2 applicable to review of decisions of the Court of Appeals by the Supreme Court. See comment 6.2.

Rule 13.7 Proceedings after acceptance of review.

(a) **Procedure.** The procedure in the Supreme Court, after acceptance of review of a decision of the Court of Appeals, is the same as the procedure in the Supreme Court after acceptance of review of a trial court decision, except that (1) the record in the Court of Appeals is the record on review in the Supreme Court, and (2) only the briefs filed in the Court of Appeals and the documents submitted in connection with the motion for discretionary review or petition for review will be considered by the Supreme Court, unless additional briefs are requested by the Supreme Court.

(b) **Scope of Review.** If the Supreme Court accepts review of a Court of Appeals decision the Supreme Court will review only the questions raised in the motion for discretionary review, or the petition for review, if review is sought of an interlocutory decision, and the answer, unless the Supreme Court orders otherwise upon the granting of the motion or petition. The Supreme Court may limit the issues to one or more of those raised by the parties.

(c) **Other Limitations on Scope of Review.** The scope of review may be further affected by the circumstances set forth in Rule 2.5. [Amended December 18, 1979, effective June 7, 1979; adopted January 28, 1976, effective July 1, 1976.]

References:

Rule 2.5, Circumstances Which May Affect Scope of Review.

Comment: (a) *Procedure.* The record and briefs from the Court of Appeals are transferred to the Supreme Court. No additional briefs are permitted unless the Supreme Court orders otherwise. The old rules are substantially the same.

(b) *Scope of Review of Decisions Subject to Appeal.* If any party has an appeal to the Supreme Court, all issues originally before the Court of Appeals are considered by the Supreme Court—even decisions on issues which are not subject to appeal.

(c) *Scope of Review of Decision Subject to Discretionary Review.* The Supreme Court will review only the questions raised in the motion for discretionary review or petition for review and answer. See *Wood v. Postelthwaite*, 82 Wn.2d 387, 510 P.2d 1109 (1973). Similarly, a party who fails to join in the motion or petition will normally not derive any benefit from Supreme Court review.

TITLE 15

SPECIAL PROVISIONS RELATING TO RIGHTS OF INDIGENT PARTY

Rule 15.2 Determination of indigency and rights of indigent party.

(a) **Motion for Order of Indigency.** A party seeking review partially or wholly at public expense must move in the trial court for an order of indigency. The motion

must be served and filed within the time allowed for filing a notice of appeal or a notice for discretionary review. The time between the service and filing of the motion for an order of indigency and the determination of that motion is excluded from the time allowed for filing a notice of appeal or notice for discretionary review. The motion must be supported by an affidavit setting forth the moving party's total assets; the expenses and liabilities of the party; a statement of the amount, if any, the party can contribute towards the expense of review; a statement of the expenses the party wants waived or provided at public expense; a brief statement of the nature of the case and the issues sought to be reviewed; a designation of those parts of the record the party thinks are necessary for review; and a statement that review is sought in good faith. If the case is a civil case which does not involve a termination of parental rights or a disposition in a juvenile offense proceeding, the party must also demonstrate in the motion or the supporting affidavit that the issues the party wants reviewed have probable merit and that the party has a constitutional right to review partially or wholly at public expense.

(b) **Action by Superior Court.** The superior court shall decide the motion for an order of indigency, after a hearing if the circumstances warrant, as follows:

(1) *Denial Generally.* The superior court shall deny the motion if a party has adequate means to pay all of the expenses of review. The order denying the motion for an order of indigency shall contain findings designating the funds or source of funds available to the party to pay all of the expenses of review.

(2) *Cases Involving Crimes, Parental Rights, Juvenile Offenses.* In a criminal case, a case involving a termination of parental rights, or a case involving a disposition in a juvenile offense proceeding, the superior court shall grant the motion and enter an order of indigency if the party seeking public funds is unable by reason of poverty to pay for all or some of the expenses of appellate review.

(3) *Other Civil Cases.* If the case is a civil case which does not involve a termination of parental rights or a disposition in a juvenile offense proceeding and if the party is unable by reason of poverty to pay for all of the expenses of review, the superior court shall enter findings of indigency. The superior court shall determine in those findings the portion of the record necessary for review and the amount, if any, the party is able to contribute towards the expense of review. The findings shall conclude with an order to the clerk of the superior court to promptly transmit to the Supreme Court, without charge to the moving party, the findings of indigency, the motion for an order of indigency, the affidavit in support of the motion, and all other papers submitted in support of or in opposition to the motion. The superior court clerk shall promptly transmit to the Supreme Court the papers designated in the findings of indigency.

(c) **Action by Supreme Court.** If findings of indigency and other papers relating to the motion for an order of indigency are transmitted to the Supreme Court, the Supreme Court will determine whether an order of indigency in that case should be entered by the superior

court. The determination will be made by a department of the Supreme Court on a regular motion day without oral argument and based only on the papers transmitted to the Supreme Court by the superior court clerk, unless the Supreme Court directs otherwise. If the Supreme Court determines that the party is seeking review in good faith, that an issue of probable merit is presented, and that the party is entitled under the state or federal constitution to review partially or wholly at public expense, the Supreme Court will enter an order directing the trial court to enter an order of indigency. In all other cases, the Supreme Court will enter an order denying the party's motion for an order of indigency. The clerk of the appellate court will transmit a copy of the order to the clerk of the superior court and notify all parties of the decision of the Supreme Court.

(d) **Order of Indigency.** An order of indigency shall designate the items of expense which are to be paid with public funds and, where appropriate, the items of expense to be paid by a party or the amount which the party must contribute towards the expense of review. The order shall designate the extent to which public funds are to be used for payment of the expense of the record on review, limited to those parts of the record reasonably necessary to review issues argued in good faith. The order of indigency shall appoint counsel if the party is entitled to counsel on review at public expense. The order of indigency must be transmitted to the appellate court as a part of the record on review.

(e) **Continued Indigency Presumed.** A party and counsel for the party who has been granted an order of indigency must bring to the attention of the trial court any significant improvement during review in the financial condition of the party. The appellate court will give a party the benefits of an order of indigency throughout the review unless the trial court finds the party's financial condition has improved to the extent that the party is no longer indigent.

(f) **Appointment and Withdrawal of Counsel in Trial Court.** The trial court shall determine questions relating to the appointment and withdrawal of counsel for an indigent party on review, except withdrawal as provided in section (h). If trial counsel is not appointed, trial counsel must assist counsel appointed for review in preparing the record.

(g) **Review of Order of Indigency.** Only a party in a criminal case, in a case involving termination of parental rights, or in a case determining whether a person is a juvenile offender may seek review of an order of indigency or an order denying an order of indigency. Review must be sought by a motion for discretionary review.

(h) **Withdrawal of Counsel in Appellate Court.** If counsel can find no basis for a good faith argument on review, counsel should file a motion in the appellate court to withdraw as counsel for the indigent. The motion should be supported by a brief. The motion and brief will be reproduced by the clerk and served on the opposing party and the person represented by counsel seeking to withdraw. [Amended December 13, 1979, effective January 1, 1980; amended July 18, 1978, effective July

1, 1978; amended June 21, 1976, effective July 2, 1976; adopted January 28, 1976, effective July 1, 1976.]

References:

Form 12, Order of Indigency,
Rule 2.3, Decisions of the Trial Court which may be Reviewed by Discretionary Review.

Part IV

RULES FOR SUPERIOR COURT

SUPERIOR COURT CIVIL RULES (CR)

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

Rule 4 Process.

(a) Summons; Issuance.

(1) The summons must be signed and dated by the plaintiff or his attorney, and directed to the defendant requiring him to defend the action and to serve a copy of his appearance or defense on the person whose name is signed on the summons.

(2) Unless a statute or rule provides for a different time requirement, the summons shall require the defendant to serve a copy of his defense within 20 days after the service of summons, exclusive of the day of service. If a statute or rule other than this rule provides for a different time to serve a defense, that time shall be stated in the summons.

(3) A notice of appearance, if made, shall be in writing, shall be signed by the defendant or his attorney, and shall be served upon the person whose name is signed on the summons. In condemnation cases a notice of appearance only shall be served on the person whose name is signed on the petition.

(4) No summons is necessary for a counterclaim or cross claim for any person who previously has been

Rule 4

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:

(i) 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.

(ii) A direction to the defendant summoning him to serve a copy of his defense within a time stated in the summons.

(iii) A notice that, in case of failure so to do, judgment will be rendered against him by default. It shall be signed and dated 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.* Except in condemnation cases the summons for personal service in the state shall be substantially in the following form:

SUPERIOR COURT OF WASHINGTON
FOR [-----] COUNTY

Plaintiff, }
v. } No. -----
----- }
Defendant. }
SUMMONS [20 days]

TO THE DEFENDANT: A lawsuit has been started against you in the above entitled court by -----, plaintiff. Plaintiff's claim is stated in the written complaint, a copy of which is served upon you with this summons.

In order to defend against this lawsuit, you must respond to the complaint by stating your defense in writing, and serve a copy upon the undersigned attorney for the plaintiff within 20 days after the service of this summons, excluding the day of service, or a default judgment may be entered against you without notice. A default judgment is one where plaintiff is entitled to what he asks for because you have not responded. If you serve a notice of appearance on the undersigned attorney, you are entitled to notice before a default judgment may be entered.

You may demand that the plaintiff file this lawsuit with the court. If you do so, the demand must be in writing and must be served upon the plaintiff. Within 14 days after you serve the demand, the plaintiff must file this lawsuit with the court, or the service on you of this summons and complaint will be void.

If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your written response, if any, may be served on time.

This summons is issued pursuant to Rule 4 of the Superior Court Civil Rules of the State of Washington.

[signed] -----

Print or Type Name
() Plaintiff () Plaintiff's Attorney
P. O. Address -----

Dated ----- Telephone Number -----

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.

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

(d) Service.

(1) *Of Summons and Complaint.* The summons and complaint shall be served together.

(2) *Personal in State.* Personal service of summons and other process shall be as provided in RCW 4.28-.080-4.28.090, 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 and 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.* Although rule 4 does not generally apply to personal service out of state, the prescribed form of summons may, with the modifications required by statute, be used for that purpose. 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 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 the 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 the 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.

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

(j) **Other Process.** These rules do not exclude the use of other forms of process authorized by law. [Amended May 7, 1980, effective July 1, 1980; amended July 20, 1978, effective September 1, 1978; amended June 13, 1977, effective July 1, 1977; amended November 29, 1971, effective January 1, 1972; adopted May 5, 1967, effective July 1, 1967.]

Rule 4.1 Process—Domestic relations actions.

(a) **Summons—General.** Actions authorized by RCW 26.09 shall be commenced by filing a petition. Service of the summons and a copy of the petition shall be made on respondent as provided in rule 4. No summons is necessary if both spouses sign a joint petition or if the respondent files a written joinder in the proceeding.

(b) **Summons—Content, Form.**

(1) *Content.* The summons shall contain the title of the action, the name of the county and the court in which the action is brought, the names of the parties, as petitioner and respondent, a direction to the respondent to serve a copy of his or her response on the person who has signed the summons, the time limit within which the copy of the response must be served, notice that failure to serve a copy of the response within the stated time may result in a judgment by default, the signature and address of the petitioner or petitioner's attorney, and the date.

(2) *Form.* The summons for personal service in the state in an action for dissolution of marriage shall be substantially in the form below. The summons for personal service in the state in any other action authorized

(d) Preliminary Hearings. The defenses specifically enumerated (1)–(7) in subdivision (b) of this rule, whether made in a pleading or by motion, and the motion for judgment mentioned in subdivision (c) of this rule shall be heard and determined before trial on application of any party, unless the court orders that the hearing and determination thereof be deferred until the trial.

Comment by the Court. Subdivision (d) follows FRCP 12(d).

(e) Motion for More Definite Statement. If a pleading to which a responsive pleading is permitted is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading, or if more particularity in that pleading will further the efficient economical disposition of the action, he may move for a more definite statement before interposing his responsive pleading. The motion shall point out the defects complained of and the details desired. If the motion is granted and the order of the court is not obeyed within 10 days after the notice of the order or within such other time as the court may fix, the court may strike the pleading to which the motion was directed or make such order as it deems just.

Comment by the Court. Subdivision (e) supersedes RCW 4.36.060.

(f) Motion to Strike. Upon motion made by a party before responding to a pleading or, if no responsive pleading is permitted by these rules, upon motion made by a party within 20 days after the service of the pleading upon him or upon the court's own initiative at any time, the court may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.

(g) Consolidation of Defenses in Motion. A party who makes a motion under this rule may join with it any other motions herein provided for and then available to him. If a party makes a motion under this rule but omits therefrom any defense or objection then available to him which this rule permits to be raised by motion, he shall not thereafter make a motion based on the defense or objection so omitted, except a motion as provided in subdivision (h)(2) hereof on any of the grounds there stated.

(h) Waiver or Preservation of Certain Defenses.

(1) A defense of lack of jurisdiction over the person, improper venue, insufficiency of process, or insufficiency of service of process is waived (A) if omitted from a motion in the circumstances described in subdivision (g), or (B) if it is neither made by motion under this rule nor included in a responsive pleading or an amendment thereof permitted by Rule 15(a) to be made as a matter of course.

(2) A defense of failure to state a claim upon which relief can be granted, a defense of failure to join a party indispensable under Rule 19, and an objection of failure to state a legal defense to a claim may be made in any pleading permitted or ordered under Rule 7(a), or by motion for judgment on the pleadings, or at the trial on the merits.

(3) Whenever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action. [Amended

December 13, 1979, effective January 1, 1980; amended November 29, 1971, effective January 1, 1972; adopted May 5, 1967, effective July 1, 1967. Prior: RPPP Rule 12.]

IV. PARTIES

Rule 19 Joinder of persons needed for just adjudication.

(a) Persons to Be Joined If Feasible. A person who is subject to service of process and whose joinder will not deprive the court of jurisdiction over the subject matter of the action shall be joined as a party in the action if (1) in his absence complete relief cannot be accorded among those already parties, or (2) he claims an interest relating to the subject of the action and is so situated that the disposition of the action in his absence may (A) as a practical matter impair or impede his ability to protect that interest or (B) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of his claimed interest. If he has not been so joined, the court shall order that he be made a party. If he should join as a plaintiff but refuses to do so, he may be made a defendant, or, in a proper case, an involuntary plaintiff. If the joined party objects to venue and his joinder would render the venue of the action improper, he shall be dismissed from the action.

(b) Determination by Court Whenever Joinder Not Feasible. If a person joinable under (1) or (2) of subdivision (a) hereof cannot be made a party, the court shall determine whether in equity and good conscience the action should proceed among the parties before it, or should be dismissed, the absent person being thus regarded as indispensable. The factors to be considered by the court include: (1) to what extent a judgment rendered in the person's absence might be prejudicial to him or those already parties; (2) the extent to which, by protective provisions in the judgment, by the shaping of relief, or other measures, the prejudice can be lessened or avoided; (3) whether a judgment rendered in the person's absence will be adequate; (4) whether the plaintiff will have an adequate remedy if the action is dismissed for nonjoinder.

(c) Pleading Reasons for Nonjoinder. A pleading asserting a claim for relief shall state the names, if known to the pleader, of any persons joinable under (1) or (2) of subdivision (a) hereof who are not joined, and the reasons why they are not joined.

(d) Exception of Class Actions. This rule is subject to the provisions of Rule 23.

(e) Husband and Wife Must Join—Exceptions. [Reserved—See RCW 4.08.030.]

Comment by the Court. Subdivision (e) is identical to and supersedes RCW 4.08.030. Together with Rule 20 and Rule 21, Rule 19 supersedes RCW 4.08.130.

[Amended May 7, 1980, effective July 1, 1980; adopted May 5, 1967, effective July 1, 1967. Prior: RPPP Rule 19.]

Rule 20 Permissive joinder of parties.

(a) **Permissive Joinder.** All persons may join in one action as plaintiffs if they assert any right to relief jointly, severally, or in the alternative in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of law or fact common to all of these persons will arise in the action. All persons may be joined in one action as defendants if there is asserted against them jointly, severally, or in the alternative, any right to relief in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of law or fact common to all defendants will arise in the action. A plaintiff or defendant need not be interested in obtaining or defending against all the relief demanded. Judgment may be given for one or more of the plaintiffs according to their respective rights to relief, and against one or more defendants according to their respective liabilities.

Comment by the Court. Subdivision (a) follows FRCP 20(a) and supersedes RCW 4.08.090.

(b) **Separate Trials.** The court may make such orders as will prevent a party from being embarrassed, delayed, or put to expense by the inclusion of a party against whom he asserts no claim and who asserts no claim against him, and may order separate trials or make other orders to prevent delay or prejudice.

Comment by the Court. Subdivision (b) is identical to FRCP 20(b).

(c) **When Husband and Wife May Join.** [Reserved—See RCW 4.08.040.]

Comment by the Court. Subdivision (c) follows and supersedes RCW 4.08.040.

(d) **Service on Joint Defendants—Procedure After Service.** When the action is against two or more defendants and the summons is served on one or more but not on all of them, the plaintiff may proceed as follows:

(1) If the action is against the defendants jointly indebted upon a contract, he may proceed against the defendants served unless the court otherwise directs; and if he recovers judgment it may be entered against all the defendants thus jointly indebted so far only as it may be enforced against the joint property of all and the separate property of the defendants served.

(2) If the action is against defendants severally liable, he may proceed against the defendants served in the same manner as if they were the only defendants.

(3) Though all the defendants may have been served with the summons, judgment may be taken against any of them severally, when the plaintiff would be entitled to judgment against such defendants if the action had been against them alone.

Comment by the Court. Subdivision (d) is identical to and supersedes RCW 4.28.190.

(e) **Procedure to Bind Joint Debtor.** [Reserved—See RCW 4.68.]

Comment by the Court. Together with Rules 19 and 21, Rule 20 supersedes RCW 4.08.130.

[Amended May 7, 1980, effective July 1, 1980; adopted May 5, 1967, effective July 1, 1967. Prior: RPPP Rule 20.]

VI. TRIALS

Rule 50 Motion for a directed verdict and for judgment notwithstanding the verdict.

(a) **Motion for Directed Verdict; When Made; Effect.** A party who moves for a directed verdict at the close of the evidence offered by an opponent may offer evidence in the event that the motion is not granted, without having reserved the right so to do and to the same extent as if the motion had not been made. A motion for a directed verdict which is not granted is not a waiver of trial by jury even though all parties to the action have moved for directed verdicts. A motion for a directed verdict shall state the specific ground therefor.

Comment by the Court. Subdivision (a) is similar to FRCP 50(a) and supersedes RPPP 50. Subdivision (a) does not supersede RCW 4.56.150.

(b) **Motion for Judgment Notwithstanding the Verdict.** Not later than 5 days after the entry of judgment or after the jury is discharged if no verdict is returned, whether or not he has moved for a directed verdict and whether or not a verdict was returned, a party may move for judgment notwithstanding the verdict. A motion in the alternative for a new trial may be joined with this motion.

(c) **Alternative Motions for Judgment Notwithstanding Verdict or for a New Trial—Effect of Appeal.** Whenever a motion for a judgment notwithstanding the verdict and, in the alternative, for a new trial shall be filed and submitted in any superior court in any civil cause tried before a jury, and such superior court shall enter an order granting such motion for judgment notwithstanding the verdict, such court shall at the same time, in the alternative, pass upon and decide in the same order such motion for a new trial; such ruling upon said motion for a new trial not to become effective unless and until the order granting the motion for judgment notwithstanding the verdict shall thereafter be reversed, vacated, or set aside in the manner provided by law. An appeal to the Supreme Court or Court of Appeals from a judgment granted on a motion for judgment notwithstanding the verdict shall, of itself, without the necessity of a cross-appeal, bring up for review the ruling of the trial court on the motion for a new trial; and the appellate court shall, if it reverses the judgment entered notwithstanding the verdict, review and determine the validity of the ruling on the motion for a new trial. [Amended May 7, 1980, effective July 1, 1980; amended August 9, 1976, effective January 1, 1977; adopted May 5, 1967, amended June 28, 1967, effective July 1, 1967. Prior: 50(a), RPPP Rule 50; 50(c) and (d), RPPP Rule 59.08W.]

VII. JUDGMENT

Rule 59 New trial and amendment of judgments.

(a) **Grounds for Reconsideration or New Trial.** The verdict or other decision may be vacated and a new trial granted to all or any of the parties and on all or part of

the issues when such issues are clearly and fairly separable and distinct, on the motion of the party aggrieved for any one of the following causes materially affecting the substantial rights of such parties:

(1) Irregularity in the proceedings of the court, jury or adverse party, or any order of the court, or abuse of discretion, by which such party was prevented from having a fair trial;

(2) Misconduct of prevailing party or jury; and whenever any one or more of the jurors shall have been induced to assent to any general or special verdict or to a finding on any question or questions submitted to the jury by the court, other and different from his own conclusions, and arrived at by a resort to the determination of chance or lot, such misconduct may be proved by the affidavits of one or more of the jurors;

(3) Accident or surprise which ordinary prudence could not have guarded against;

(4) Newly discovered evidence, material for the party making the application, which he could not with reasonable diligence have discovered and produced at the trial;

(5) Damages so excessive or inadequate as unmistakably to indicate that the verdict must have been the result of passion or prejudice;

(6) Error in the assessment of the amount of recovery whether too large or too small, when the action is upon a contract, or for the injury or detention of property;

(7) That there is no evidence or reasonable inference from the evidence to justify the verdict or the decision, or that it is contrary to law;

(8) Error in law occurring at the trial and objected to at the time by the party making the application;

(9) That substantial justice has not been done.

Comment by the Court. Subdivision (a) follows the first paragraph of RPPP 59.04W.

(b) Time for Motion. A motion for a new trial shall be served not later than 5 days after the entry of the judgment.

Comment by the Court. Subdivision (b) supersedes RCW 4.64.010.

(c) Time for Serving Affidavits. When a motion for new trial is based upon affidavits they shall be served with the motion. The opposing party has 5 days after such service within which to serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days either by the court for good cause shown or by the parties by written stipulation. The court may permit reply affidavits.

Comment by the Court. Subdivision (c) follows FRCP 59(c).

(d) On Initiative of Court. Not later than 5 days after entry of judgment, the court of its own initiative may order a hearing on its proposed order for a new trial for any reason for which it might have granted a new trial on motion of a party, and in the order shall specify the grounds thereof.

Comment by the Court. Subdivision (d) follows FRCP 59(d).

(e) Hearing on Motion. When a motion for reconsideration or for a new trial is served and filed, the judge by whom it is to be heard may on his own motion or on application determine:

(1) *Time of Hearing.* Whether the motion shall be heard before the entry of judgment;

(2) *Consolidation of Hearings.* Whether the motion shall be heard before or at the same time as the presentation of the findings and conclusions and/or judgment, and the hearing on any other pending motion; and

(3) *Nature of Hearing.* Whether the motion or motions and presentation shall be heard on oral argument or submitted on briefs, and if on briefs, shall fix the time within which the briefs shall be served and filed.

Comment by the Court. Subdivision (e) supersedes RPPP 8.08W(3).

(f) Statement of Reasons. In all cases where the trial court grants a motion for a new trial, it shall, in the order granting the motion, state whether the order is based upon the record or upon facts and circumstances outside the record which cannot be made a part thereof. If the order is based upon the record, the court shall give definite reasons of law and facts for its order. If the order is based upon matters outside the record, the court shall state the facts and circumstances upon which it relied.

Comment by the Court. Subdivision (f) supersedes the next to the last paragraph of RPPP 59.04W.

(g) Reopening Judgment. On a motion for a new trial in an action tried without a jury, the court may open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct the entry of a new judgment.

Comment by the Court. Subdivision (g) is identical to the last sentence of FRCP 59(a).

(h) Motion to Alter or Amend Judgment. A motion to alter or amend the judgment shall be served not later than 5 days after entry of the judgment.

Comment by the Court. Subdivision (h) follows FRCP 59(e).

(i) Alternative Motions, etc. Alternative motions for judgment notwithstanding the verdict and for a new trial may be made in accordance with rule 50(c).

(j) Limit on Motions. If a motion for reconsideration, or for a new trial, or for judgment notwithstanding the verdict, is made and heard before the entry of the judgment, no further motion may be made for a new trial nor pursuant to subdivisions (g), (h), and (i) of this rule, nor under Rule 52(b), without leave of court first obtained for good cause shown. [Amended May 7, 1980, effective July 1, 1980; adopted May 5, 1967, effective July 1, 1967. Prior: 59(a), 59(b) and 59(f), RPPP Rule 59.04W; 59(e), RPPP Rule 8.08W(3); 59(i), RPPP Rule 59.08W Part.]

Part V
RULES FOR COURTS OF LIMITED
JURISDICTION

JUSTICE COURT TRAFFIC RULES (JTR)

Chapter T2 Preliminary proceedings

Rule

T2.02 Complaint and citation—Arrest by warrant—
Procedure

Rule T2.02 Complaint and citation—Arrest by warrant—Procedure. (a) All traffic violations shall be prosecuted by complaint in the form provided in rule T2.01 and applicable state statutes.

(b) Whenever any person is arrested by an officer for any violation of the traffic laws or regulations of the state, a county or a city, the officer shall fill out the complaint and citation form in accordance with rule T2.01 and applicable statutes. The arresting officer shall serve a copy of the complaint and citation on the person and either

(1) Take the person arrested directly and without delay before an officer authorized to accept bail, or a judge, for deposit of bail; or

(2) if bail is not deposited, before a judge as hereinafter provided; or

(3) permit the person charged with the violation to give his written promise to appear in court or traffic violations bureau by signing the original traffic citation prepared by the officer, in which event the officer shall deliver the violator's copy of the citation to the person, and thereupon the officer shall release the person from custody.

(c) **Obtaining Jurisdiction of a Person not Arrested.** Whenever any person is charged with the violation of the traffic laws or regulations of the state, a county, or a city, but is not arrested, the court shall issue a summons, or in the alternative, a warrant, in the same manner as in Rule 2.02 of the Criminal Rules for Justice Court. Said summons may be served or warrant executed as provided for in said Rule 2.02 of the Criminal Rules for Justice Court. Before proceeding as above, the court may notify the defendant by mail, of the charge, of the existence of a complaint, the date and time or interval of time in which the defendant is to appear, the place to appear, whether the charge is mandatory or forfeitable and if forfeitable, the amount of bail which may be required. Upon posting bail or upon obtaining personal recognizance, the court shall obtain jurisdiction of the person of the defendant in a like manner as if the summons had been served on the defendant or warrant executed.

(d) (1) *Execution of Warrant.* The warrant shall be directed to all peace officers in the state and shall be executed only by a peace officer.

(2) *Service of Summons.* The summons may be served any place within the state. It shall be served by a peace officer who shall deliver a copy of the same to the defendant personally, or it may be served by mailing the

same, postage prepaid, to the defendant at his address. [Amended December 13, 1979, effective January 1, 1980; amended December 17, 1970, effective April 16, 1971; amended July 14, 1966, effective August 1, 1966; adopted February 13, 1963, effective July 1, 1963.]

Parallel Tables: 1980 Regular Session Laws—RCW

1980 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 | 43.135.010 | 20 | 2 | <i>Em.</i> | 6 | 28A.57.358 | 64 | 82.12.0265 | 3 | 9.68A.030 | | |
| | 2 | 43.135.020 | | 1 | 46.48.170 | 7 | 29.04.170 | 65 | 82.12.0266 | 4 | <i>Leg. dir.</i> | | |
| | 3 | 43.135.030 | | 2 | 46.48.180 | 8 | 29.27.080 | 66 | 82.12.0267 | 5 | <i>Sev.</i> | | |
| | 4 | 43.135.040 | | 3 | 46.48.185 | 9 | <i>Em.</i> | 67 | 82.12.0268 | | 9.68A.900 | | |
| | 5 | 43.135.050 | | 4 | 46.48.190 | | n28A.57.312 | 68 | 82.12.0269 | 54 | 1 | 33.20.190 | |
| | 6 | 43.135.060 | 21 | 1 | 43.83A.010 | 10 | <i>Sev.</i> | 69 | 82.12.0271 | 2 | 33.12.020 | | |
| | 7 | 43.135.070 | | 2 | 43.83A.050 | | n28A.57.312 | 70 | 82.12.0272 | 3 | n33.20.190 | | |
| | 8 | <i>Sev.</i> | 22 | 1 | 66.44.316 | 36 | 1 | <i>Repealer</i> | 71 | 82.12.0273 | 55 | 1 | 75.08.080 |
| | | 43.135.900 | | 2 | <i>Repealer</i> | 37 | 1 | <i>Intent</i> | 72 | 82.12.0274 | 56 | 1 | 36.29.020 |
| | 9 | <i>Eff. date</i> | 23 | 1 | 87.03.460 | | | n82.04.4281 | 73 | 82.12.0275 | 57 | 1 | 70.08.040 |
| | | 43.135.901 | | 2 | 85.06.380 | 2 | 2 | 82.04.4281 | 74 | 82.12.0276 | 2 | 70.08.070 | |
| | 10 | <i>Leg. dir.</i> | 24 | 1 | 77.20.015 | 3 | 3 | 82.04.4282 | 75 | 82.12.0277 | 3 | 70.08.080 | |
| 2 | 1 | n43.21C.032 | | 2 | 77.32.191 | 4 | 4 | 82.04.4283 | 76 | 82.12.0278 | 4 | <i>Sev.</i> | |
| | 2 | 43.21C.032 | | 3 | <i>Repealer</i> | 5 | 5 | 82.04.4284 | 77 | 82.12.0279 | | 70.08.900 | |
| | 3 | 90.58.030 | 25 | 1 | 35.82.300 | 6 | 6 | 82.04.4285 | 78 | 82.04.425 | 5 | <i>Em.</i> | |
| | 4 | <i>Repealer</i> | 26 | 1 | <i>Repealer</i> | 7 | 7 | 82.04.4286 | 79 | 82.12.020 | 58 | 1 | 72.05.140 |
| | 5 | <i>Em.</i> | 27 | 1 | 52.12.010 | 8 | 8 | 82.04.4287 | 80 | 82.04.431 | 59 | 1 | 28A.27.010 |
| 3 | 1 | 29.13.010 | 28 | 1 | 47.44.010 | 9 | 9 | 82.04.4288 | 81 | <i>Repealer</i> | 60 | 1 | 47.38.050 |
| | 2 | 29.13.020 | | 2 | 47.44.020 | 10 | 10 | 82.04.4289 | 82 | <i>Em.</i> | 2 | 46.16.063 | |
| | 3 | n29.13.010 | 29 | 1 | 41.04.270 | 11 | 11 | 82.04.4291 | 38 | 1 | 3 | 46.68.170 | |
| | 4 | 29.07.160 | | 2 | <i>Repealer</i> | 12 | 12 | 82.04.4292 | 39 | 1 | 4 | <i>Eff. date</i> | |
| | 5 | <i>Em.</i> | | 3 | <i>Repealer</i> | 13 | 13 | 82.04.4293 | 2 | <i>Repealer</i> | | n47.38.050 | |
| 4 | 1 | 43.51.270 | 30 | 1 | 19.28.500 | 14 | 14 | 82.04.4294 | 3 | <i>Sev.</i> | 61 | 1 | 28A. 58.135 |
| | 2 | 43.51.280 | | 2 | 19.28.510 | 15 | 15 | 82.04.4295 | | n42.23.030 | 62 | 1 | 28B.1.5.740 |
| 5 | 1 | 47.04.160 | | 3 | 19.28.520 | 16 | 16 | 82.04.4296 | 40 | 1 | 63 | 1 | 19.100.180 |
| 6 | 1 | 28A.40.100 | | 4 | 19.28.530 | 17 | 17 | 82.04.4297 | 2 | <i>Repealer</i> | 2 | 19.100.210 | |
| | 2 | 28A.41.040 | | 5 | 19.28.540 | 18 | 18 | 82.04.4298 | 3 | <i>Eff. date</i> | 64 | 1 | 19.27.060 |
| | 3 | 28A.41.050 | | 6 | 19.28.550 | 19 | 19 | 82.08.0251 | | n36.77.065 | 2 | <i>Em.</i> | |
| | 4 | 28A.35.030 | | 7 | 19.28.560 | 20 | 20 | 82.08.0252 | 41 | 1 | 65 | 1 | 46.90.200 |
| | 5 | 28A.48.010 | | 8 | 19.28.570 | 21 | 21 | 82.08.0253 | 2 | 31.12.090 | 2 | 46.90.300 | |
| | 6 | 43.79.425 | | 9 | 19.28.580 | 22 | 22 | 82.08.0254 | 3 | 31.12.130 | 3 | 46.90.406 | |
| | 7 | <i>Repealer</i> | | 10 | 19.28.590 | 23 | 23 | 82.08.0255 | 4 | 31.12.190 | 4 | 46.90.427 | |
| | 8 | <i>Sev.</i> | | 11 | 19.28.600 | 24 | 24 | 82.08.0256 | 5 | 31.12.220 | 5 | 46.90.463 | |
| | | n28A.40.100 | | 12 | 19.28.610 | 25 | 25 | 82.08.0257 | 6 | 31.12.270 | 6 | 46.90.481 | |
| 7 | 1 | 2.10.220 | | 13 | 19.28.620 | 26 | 26 | 82.08.0258 | 7 | 31.12.280 | 7 | 46.90.700 | |
| | 2 | <i>Em.</i> | | 14 | <i>Vetoed</i> | 27 | 27 | 82.08.0259 | 8 | 31.12.320 | 8 | 46.90.705 | |
| 8 | 1 | 19.27.030 | | 15 | 19.28.200 | 28 | 28 | 82.08.0261 | 9 | 31.12.305 | 9 | <i>Repealer</i> | |
| 9 | 1 | 30.40.060 | | 16 | 19.28.350 | 29 | 29 | 82.08.0262 | 10 | 11.62.030 | 66 | 1 | 75.18.110 |
| 10 | 1 | 48.20.490 | | 17 | 19.28.370 | 30 | 30 | 82.08.0263 | 11 | 31.12A.010 | 67 | 1 | 47.68.090 |
| | 2 | 48.21.210 | | 18 | 19.28.380 | 31 | 31 | 82.08.0264 | 12 | 31.12A.050 | 68 | 1 | 18.27.100 |
| | 3 | 48.44.280 | | 19 | <i>Repealer</i> | 32 | 32 | 82.08.0265 | 13 | <i>Sev.</i> | 2 | 18.27.090 | |
| | 4 | 48.46.065 | | 20 | <i>Leg. dir.</i> | 33 | 33 | 82.08.0266 | | n31.12.080 | 69 | 1 | 43.43.610 |
| 11 | 1 | 41.06.160 | 31 | 1 | 34.04.090 | 34 | 34 | 82.08.0267 | 42 | 1 | 2 | 43.43.670 | |
| | 2 | 41.06.167 | 32 | 1 | 43.79.430 | 35 | 35 | 82.08.0268 | 2 | 29.82.130 | 3 | 43.43.640 | |
| | 3 | 28B.16.110 | | 2 | <i>Eff. date</i> | 36 | 36 | 82.08.0269 | 3 | 29.82.020 | 70 | 1 | 36.18.020 |
| | 12 | 56.20.015 | | | n43.79.430 | 37 | 37 | 82.08.0271 | 43 | 1 | 2 | 36.18.027 | |
| 13 | 1 | 28B.10.790 | | 3 | 43.79.330 | 38 | 38 | 82.08.0272 | 44 | 1 | 71 | 1 | 69.41.010 |
| | 2 | 28B.10.792 | | 4 | <i>Eff. date</i> | 39 | 39 | 82.08.0273 | 45 | 1 | 2 | 69.50.101 | |
| | 3 | <i>Sev.</i> | | | n43.79.330 | 40 | 40 | 82.08.0274 | 46 | 1 | 72 | 1 | 18.85.120 |
| | | n28B.10.790 | | 5 | 28B.30.604 | 41 | 41 | 82.08.0275 | 2 | 18.26.070 | 2 | <i>Em.</i> | |
| 14 | 1 | 51.04.030 | | 6 | 29.07.230 | 42 | 42 | 82.08.0276 | 3 | <i>Em.</i> | 73 | 1 | 41.06.076 |
| | 2 | 51.04.070 | | 7 | 46.12.360 | 43 | 43 | 82.08.0277 | 47 | 1 | 74 | 1 | 50.04.323 |
| | 3 | 51.04.110 | | 8 | <i>Eff. date</i> | 44 | 44 | 82.08.0278 | 2 | 28A.57.357 | 2 | 50.44.050 | |
| | 4 | 51.08.030 | | | n46.12.360 | 45 | 45 | 82.08.0279 | 3 | 28A.57.358 | 3 | 50.20.120 | |
| | 5 | 51.08.178 | | 9 | 48.58.010 | 46 | 46 | 82.08.0281 | 4 | <i>Em.</i> | 4 | 50.20.095 | |
| | 6 | 51.12.110 | | 10 | 67.16.110 | 47 | 47 | 82.08.0282 | | n28A.57.312 | 5 | 50.20.050 | |
| | 7 | 51.16.120 | | 11 | 74.09.160 | 48 | 48 | 82.08.0283 | 5 | <i>Sev.</i> | 6 | <i>Sev.</i> | |
| | 8 | 51.32.030 | | 12 | 86.18.030 | 49 | 49 | 82.08.0284 | | n28A.57.312 | | n50.04.323 | |
| | 9 | 51.32.073 | | 13 | 90.48.285 | 50 | 50 | 82.08.0285 | 48 | 1 | 7 | <i>Eff. dates</i> | |
| | 10 | 51.32.095 | | 14 | 90.50.030 | 51 | 51 | 82.12.0251 | 49 | 1 | | n50.04.323 | |
| | 11 | 51.32.110 | | 15 | <i>Eff. date</i> | 52 | 52 | 82.12.0252 | | 42.30.200 | 75 | 1 | 9.96.050 |
| | 12 | 51.36.030 | | | n90.50.030 | 53 | 53 | 82.12.0253 | 50 | 1 | 76 | 1 | 34.04.133 |
| | 13 | 51.48.050 | | 16 | <i>Repealer</i> | 54 | 54 | 82.12.0254 | 51 | 1 | 2 | 34.04.135 | |
| | 14 | 51.48.070 | | 17 | <i>Repealer</i> | 55 | 55 | 82.12.0255 | 2 | 18.25.070 | 3 | 2.06.030 | |
| | 15 | <i>Em.</i> | 33 | 1 | 34.04.170 | 56 | 56 | 82.12.0256 | 3 | 18.25.025 | 77 | 1 | 43.43.120 |
| 15 | 1 | 75.48.020 | 34 | 1 | 35.39.041 | 57 | 57 | 82.12.0257 | 4 | <i>Em.</i> | 2 | 43.43.130 | |
| 16 | 1 | 67.16.100 | | 2 | <i>Repealer</i> | 58 | 58 | 82.12.0258 | 5 | <i>Repealer</i> | 78 | 1 | n77.04.010 |
| | 2 | <i>Em.</i> | 35 | 1 | 28A.57.312 | 59 | 59 | 82.12.0259 | 6 | <i>Sev.</i> | 2 | 77.04.010 | |
| 17 | 1 | 72.64.110 | | 2 | 28A.57.328 | 60 | 60 | 82.12.0261 | | n18.25.015 | 3 | 77.04.020 | |
| | 2 | <i>Em.</i> | | 3 | 28A.57.355 | 61 | 61 | 82.12.0262 | 52 | 1 | 4 | 77.04.030 | |
| 18 | 1 | 28A.65.405 | | 4 | 28A.57.356 | 62 | 62 | 82.12.0263 | 53 | 1 | 5 | 77.04.040 | |
| 19 | 1 | 9.95.210 | | 5 | 28A.57.357 | 63 | 63 | 82.12.0264 | 2 | 9.68A.020 | 6 | 77.04.060 | |

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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. |
|------------|--------------------|------------|--------------------|------------|--------------------|------------|--------------------|------------|---------------------|
| 7 | <i>Leg. rev.</i> | 90 | 77.12.425 | 4 | <i>Em.</i> | 3 | <i>Eff. date.</i> | | n4.16.020 |
| 8 | 77.04.080 | 91 | 77.12.265 | 5 | <i>Sev.</i> | | n46.52.020 | 106 | 1 |
| 9 | 77.08.010 | 92 | 77.21.010 | | n26.32.030 | 98 | 1 | 2 | 74.26.010 |
| 10 | 77.08.020 | 93 | 77.16.250 | 86 | 1 | 82.08.0283 | 2 | 3 | 74.26.020 |
| 11 | 77.08.030 | 94 | 77.16.260 | 2 | 82.12.0277 | 3 | 82.27.020 | 3 | 74.26.030 |
| 12 | 77.12.010 | 95 | 77.16.290 | 3 | 82.08.0284 | 4 | 82.27.030 | 4 | 74.26.040 |
| 13 | 77.12.020 | 96 | <i>Leg. rev.</i> | 4 | 82.12.0278 | 5 | 82.27.040 | 5 | 74.26.050 |
| 14 | 77.12.030 | 97 | <i>Leg. rev.</i> | 87 | 1 | 44.04.200 | 6 | 6 | 74.26.060 |
| 15 | 77.12.040 | 98 | 77.12.570 | 2 | 1.12.025 | 7 | 82.27.060 | 7 | <i>Approp.</i> |
| 16 | 77.04.090 | 99 | 77.12.580 | 3 | <i>Vetoed</i> | 8 | 82.27.070 | 8 | <i>Leg. dir.</i> |
| 17 | 77.12.055 | 100 | 77.12.590 | 4 | <i>Vetoed</i> | 9 | 75.18.100 | 107 | 1 |
| 18 | 77.12.060 | 101 | 77.12.600 | 5 | 28A.41.053 | 10 | 75.98.040 | 2 | 29.04.135 |
| 19 | 77.12.070 | 102 | 77.32.005 | 6 | 28A.41.250 | | <i>Repealer</i> | 3 | 29.04.040 |
| 20 | 77.12.080 | 103 | 77.32.010 | 7 | 28A.92.030 | | <i>Savings</i> | 108 | 1 |
| 21 | 77.12.090 | 104 | 77.32.155 | 8 | 28A.97.100 | | nCh. 82.27 | 2 | <i>Em.</i> |
| 22 | 77.12.095 | 105 | 77.32.020 | 9 | 28B.19.050 | 11 | <i>Digest</i> | 109 | 1 |
| 23 | 77.12.100 | 106 | 77.32.050 | 10 | 28B.20.382 | | <i>Eff. date</i> | 2 | 70.84.010 |
| 24 | <i>Leg. rev.</i> | 107 | 77.32.060 | 11 | 34.04.040 | | 82.27.900 | 2 | 70.84.020 |
| 25 | 77.21.040 | 108 | 77.32.070 | 12 | 34.04.160 | 12 | <i>Leg. dir.</i> | 3 | 70.84.030 |
| 26 | 77.12.120 | 109 | 77.32.090 | 13 | 40.04.090 | 13 | 82.27.080 | 4 | 70.84.040 |
| 27 | 77.12.130 | 110 | 77.32.101 | 14 | 41.06.070 | 99 | 23A.08.025 | 5 | 70.84.050 |
| 28 | 77.12.140 | 111 | <i>Leg. rev.</i> | 15 | 41.32.401 | 1 | 23A.08.255 | 6 | 70.84.060 |
| 29 | 77.12.150 | 112 | 77.32.161 | 16 | 41.52.010 | 2 | 23A.08.330 | 7 | 70.84.070 |
| 30 | 77.12.170 | 113 | 77.32.191 | 17 | 41.56.220 | 3 | 23A.08.340 | 8 | 70.84.080 |
| 31 | 77.21.050 | 114 | 77.32.197 | 18 | 41.56.420 | 4 | 23A.08.343 | 110 | 1 |
| 32 | <i>Leg. rev.</i> | 115 | 77.32.211 | 19 | 41.56.452 | 5 | 23A.08.395 | 1 | <i>Purpose</i> |
| 33 | <i>Leg. rev.</i> | 116 | 77.32.220 | 20 | 43.03.028 | 6 | 23A.08.400 | 2 | n53.08.290 |
| 34 | 77.12.190 | 117 | 77.32.230 | 21 | 43.07.030 | 7 | 23A.08.450 | 3 | 53.08.290 |
| 35 | 77.12.200 | 118 | 77.32.310 | 22 | 43.21A.130 | 8 | 23A.08.480 | 4 | 53.08.295 |
| 36 | 77.12.201 | 119 | 77.32.240 | 23 | 43.21G.040 | 9 | 23A.08.480 | 111 | 1 |
| 37 | 77.12.203 | 120 | 77.32.250 | 24 | 43.56.030 | 10 | 23A.28.125 | 112 | 1 |
| 38 | 77.12.210 | 121 | 77.32.256 | 25 | 43.88.020 | 11 | 23A.28.250 | 2 | 41.40.123 |
| 39 | 77.12.220 | 122 | 77.21.060 | 26 | 43.88.030 | 12 | 23A.32.160 | 113 | 1 |
| 40 | 77.12.230 | 123 | 77.21.030 | 27 | 44.04.010 | 13 | 23A.40.020 | 114 | 1 |
| 41 | 87.12.240 | 124 | 77.21.020 | 28 | 44.24.010 | 14 | 23A.40.035 | 2 | 46.01.140 |
| 42 | 77.12.250 | 125 | 77.16.310 | 29 | 44.24.020 | 15 | 23A.40.070 | 115 | 1 |
| 43 | 77.12.260 | 126 | 77.12.550 | 30 | 44.28.010 | 16 | <i>Repealer</i> | 2 | 28A.58.040 |
| 44 | <i>Leg. rev.</i> | 127 | 77.12.560 | 31 | 44.28.020 | 17 | <i>Eff. date</i> | 3 | 28A.58.033 |
| 45 | 77.12.270 | 128 | 77.12.540 | 32 | 44.30.020 | | n23A.08.480 | 4 | 28A.58.034 |
| 46 | 77.12.280 | 129 | 3.62.015 | 33 | 44.30.030 | 100 | 27.12.060 | 5 | 28A.58.035 |
| 47 | 77.12.290 | 130 | 43.126.030 | 34 | 44.33.220 | 1 | 36.95.130 | 6 | 28A.58.036 |
| 48 | 77.12.300 | 131 | 46.10.200 | 35 | 44.33.240 | 2 | 36.29.040 | 7 | 28A.58.037 |
| 49 | 77.12.315 | 132 | 70.93.050 | 36 | 44.36.030 | 3 | 36.29.060 | 8 | <i>Leg. dir.</i> |
| 50 | 77.12.320 | 133 | 75.08.150 | 37 | 44.36.050 | 4 | 36.88.200 | 9 | <i>Sev.</i> |
| 51 | 77.12.323 | 134 | 75.08.200 | 38 | 44.39.020 | 5 | 36.88.330 | 116 | 1 |
| 52 | 77.12.325 | 135 | 75.28.650 | 39 | 44.40.010 | 6 | <i>Em.</i> | 1 | n28A.58.040 |
| 53 | 77.12.330 | 136 | <i>Leg. rev.</i> | 40 | 44.48.010 | 7 | 18.55.010 | 2 | 79.80.010 |
| 54 | 77.12.360 | 137 | <i>Eff. date</i> | 41 | 44.48.020 | 101 | 18.55.020 | 3 | 79.80.020 |
| 55 | 77.12.370 | | n77.04.010 | 42 | 44.48.030 | 2 | 18.55.030 | 4 | 79.80.030 |
| 56 | 77.12.380 | 138 | <i>Savings</i> | 43 | 44.60.020 | 3 | 18.55.040 | 5 | 79.80.040 |
| 57 | 77.12.390 | | n77.04.010 | 44 | 46.68.120 | 4 | 18.55.060 | 6 | 79.80.050 |
| 58 | <i>Leg. rev.</i> | 139 | <i>Sev.</i> | 45 | 47.01.071 | 5 | 18.55.070 | 7 | n79.80.010 |
| 59 | 77.12.420 | | n77.04.010 | 46 | 90.03.247 | 6 | 18.55.080 | 8 | <i>Leg. dir.</i> |
| 60 | 77.12.430 | 140 | <i>Repealer</i> | 47 | 90.03.247 | 7 | 18.55.090 | 9 | <i>Sev.</i> |
| 61 | 77.12.440 | 79 | 1 | 46.16.035 | 88 | 1 | 18.55.100 | 10 | 79.80.900 |
| 62 | 77.12.450 | 2 | 74.08.025 | 2 | 73.04.110 | 2 | 18.55.185 | 117 | 1 |
| 63 | 77.12.470 | 80 | 1 | 43.51.040 | 89 | 1 | 48.05.185 | 1 | 48.22.030 |
| 64 | 77.12.480 | 2 | 28B.15.045 | 2 | 43.51.060 | 102 | 2 | 2 | 48.22.040 |
| 65 | 77.12.490 | 3 | <i>Leg. dir.</i> | 3 | 43.51.380 | 12 | 48.15.020 | 3 | 46.29.090 |
| 66 | 77.12.185 | 4 | <i>Sev.</i> | 4 | 43.51.385 | 2 | 48.15.070 | 4 | 46.29.260 |
| 67 | 77.12.530 | | n28B.15.044 | 5 | <i>Vetoed</i> | 3 | 48.15.090 | 5 | 46.29.390 |
| 68 | <i>Leg. rev.</i> | 81 | 1 | 36.34.350 | 90 | 1 | 48.15.130 | 6 | 46.29.490 |
| 69 | 77.16.010 | 2 | 75.25.080 | 2 | 82.20.065 | 5 | 48.15.140 | 7 | 46.29.550 |
| 70 | 77.16.020 | 3 | <i>Eff. date</i> | 3 | <i>Ex. date</i> | 6 | 48.18.290 | 8 | <i>Eff. date</i> |
| 71 | 77.12.105 | | n75.25.040 | | n36.34.350 | 7 | 48.18.300 | 118 | 1 |
| 72 | 77.16.040 | 82 | 1 | 28A.24.175 | 91 | 1 | 48.18.300 | 2 | 41.06.010 |
| 73 | 77.16.050 | 2 | <i>Em.</i> | 92 | 1 | 56.12.010 | 8 | 3 | 41.06.020 |
| 74 | 77.16.060 | 83 | 1 | 57.12.010 | 2 | 57.12.010 | 9 | 4 | 41.06.150 |
| 75 | 77.16.070 | 2 | 69.41.210 | 93 | 1 | 36.80.010 | 10 | 5 | 41.06.400 |
| 76 | 77.16.080 | 3 | 69.41.220 | 2 | <i>Repealer</i> | 103 | 1 | 6 | 41.06.410 |
| 77 | 77.16.090 | 4 | 69.41.230 | 1 | 4.84.250 | 2 | 43.19.1906 | 7 | 41.06.420 |
| 78 | 77.16.095 | 5 | 69.41.240 | 94 | 1 | 4.84.250 | 3 | 8 | 41.06.430 |
| 79 | 77.16.100 | 6 | 69.41.250 | 2 | 4.84.270 | 2 | n43.19.190 | 9 | 41.06.440 |
| 80 | 77.16.110 | 7 | 69.41.260 | 3 | 4.84.280 | 104 | 1 | 10 | <i>Approp. Sev.</i> |
| 81 | 77.16.120 | 8 | 69.41.050 | 4 | 4.84.300 | 2 | 46.48.175 | 1 | n41.06.010 |
| 82 | 77.16.130 | 9 | <i>Leg. dir.</i> | 5 | 4.56.110 | 3 | 46.44.120 | 2 | 41.06.010 |
| 83 | 77.16.150 | 10 | <i>Approp.</i> | 6 | <i>Eff. date.</i> | 4 | 46.16.500 | 119 | 1 |
| 84 | 77.16.160 | 84 | 1 | n4.84.250 | 95 | 1 | 46.37.600 | 2 | <i>Approp. Em.</i> |
| 85 | 77.16.170 | 2 | 74.04.005 | 1 | 17.10.050 | 2 | 81.04.390 | 1 | 41.04.230 |
| 86 | 77.16.180 | 3 | 74.04.300 | 2 | <i>Em.</i> | 3 | 4.16.020 | 2 | 41.05.025 |
| 87 | 77.16.190 | 85 | 1 | 28A.58.535 | 96 | 1 | 4.16.040 | 121 | 1 |
| 88 | 77.16.210 | 2 | 26.23.030 | 2 | 28B.10.360 | 4 | 4.56.190 | 1 | <i>Purpose</i> |
| 89 | 77.16.220 | 3 | 26.32.916 | 1 | 46.52.020 | 5 | 6.04.010 | 2 | <i>Approp.</i> |
| | | | 9A.64.030 | 2 | 46.61.600 | 6 | 6.32.010 | 3 | <i>Em.</i> |
| | | | | | | 7 | 6.32.015 | 122 | 1 |
| | | | | | | | <i>Applic.</i> | 2 | 28A.24.178 |
| | | | | | | | | | 28A.24.055 |

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|------------|--------------------|------------|--------------------|------------|--------------------|------------|--------------------|------------|--------------------|
| 123 | 1 Vetoed | 6 | 84.33.075 | 15 | 43.43.860 | 2 | 82.29A.135 | 8 | 43.19.1911 |
| | 2 28A.91.100 | 135 | 1 48.05.340 | 16 | 43.43.866 | 3 | 82.04.325 | 9 | Leg. dir. |
| | 3 28A.91.110 | | 2 48.09.090 | 17 | Leg. dir. | 4 | 82.01.110 | 10 | Em. |
| | 4 28A.91.120 | | 3 Repealer | 18 | Approp. | 158 | 1 Approp. | 173 | 1 44.42.010 |
| | 5 28A.91.130 | 136 | 1 43.99C.045 | 19 | Sev. | 159 | 1 43.99F.010 | 2 | 44.42.020 |
| | 6 Vetoed | | 2 43.99C.047 | | 10.29.900 | 2 | 43.99F.020 | 3 | 44.42.030 |
| | 7 Vetoed | | 3 Approp. | 147 | 1 82.08.0255 | 3 | 43.99F.030 | 4 | Par. veto |
| | 8 nCh. 28A.91 | | n43.99C.045 | 2 | 82.12.0256 | 4 | 43.99F.040 | 5 | 44.42.040 |
| | Digest | 4 | Sev. | 148 | 1 46.10.090 | 5 | 43.99F.050 | 6 | 44.42.050 |
| | 9 nCh. 28A.91 | | n43.99C.045 | 2 | 46.10.190 | 6 | 43.99F.060 | 6 | Exp. date |
| | Digest | | Em. | 3 | 46.20.342 | 7 | 43.99F.070 | 7 | 44.42.900 |
| | 10 nCh. 28A.91 | 137 | 1 74.08.530 | 4 | 46.52.110 | 8 | 43.99F.080 | 8 | Leg. dir. |
| | Digest | | 2 74.08.550 | 5 | Repealer | 9 | 43.99F.090 | 174 | 1 74.04.005 |
| | 11 Approp. | | 3 74.03.570 | 6 | 35.20.090 | 10 | 43.99F.100 | 2 | 74.04.001 |
| | nCh. 28A.91 | | 4 Approp. | 7 | 46.63.020 | 11 | Leg. dir. | 3 | Em. |
| | Digest | 138 | 1 69.50.204 | 8 | 10.31.100 | 12 | 43.99F.110 | 175 | 1 82.34.010 |
| | 12 Repealer | | 2 69.50.206 | 9 | Em. | 160 | 1 74.38.070 | 2 | 70.94.040 |
| | 13 Leg. dir. | | 3 69.50.208 | | n46.10.090 | 161 | 1 43.96C.010 | 176 | 1 46.16.015 |
| | 14 43.131.240 | | 4 69.50.210 | 149 | 1 n80.28.025 | 2 | 43.96C.020 | 2 | 70.120.040 |
| | 15 Sev. | | 5 69.50.212 | 2 | 80.28.025 | 3 | 43.96C.030 | 3 | 70.120.060 |
| 124 | 1 26.12.220 | | 6 69.50.402 | 3 | 82.16.055 | 4 | 43.96C.040 | 4 | 70.120.070 |
| | 2 26.12.140 | | 7 Em. | 150 | 1 35.92.380 | 5 | 43.96C.050 | 5 | 70.120.140 |
| 125 | 1 74.15.030 | 139 | 1 70.38.015 | 2 | 36.94.370 | 6 | 43.96C.060 | 177 | 1 74.46.010 |
| | 2 Approp. | | 2 70.38.025 | 151 | 1 79.14.030 | 7 | Leg. dir. | 2 | 74.46.020 |
| 126 | 1 Approp. | | 3 70.38.045 | 152 | 1 46.44.170 | 162 | 1 3.02.010 | 3 | 74.46.030 |
| | 2 Em. | | 4 70.38.055 | 2 | 59.20.090 | 2 | 3.02.020 | 4 | 74.46.040 |
| 127 | 1 35.86A.070 | | 5 70.38.065 | 3 | 59.20.030 | 3 | 3.02.030 | 5 | 74.46.050 |
| | 2 35.86A.120 | | 6 70.38.085 | 4 | 59.20.050 | 4 | 3.02.040 | 6 | 74.46.060 |
| 128 | 1 46.63.060 | | 7 70.38.105 | 5 | 59.20.070 | 5 | Leg. dir. | 7 | 74.46.070 |
| | 2 46.63.070 | | 8 70.38.115 | 6 | 59.20.075 | 6 | 2.36.050 | 8 | 74.46.080 |
| | 3 46.63.090 | | 9 70.38.111 | 7 | Em. | 7 | 3.42.010 | 9 | 74.46.090 |
| | 4 46.63.110 | | 10 70.38.125 | 8 | Approp. | 8 | 3.58.010 | 10 | 74.46.100 |
| | 5 46.63.130 | | 11 70.38.156 | 153 | 1 43.22.440 | 9 | 3.62.060 | 11 | 74.46.110 |
| | 6 13.04.030 | | 12 Sev. | 2 | 43.22.442 | 10 | 3.70.040 | 12 | 74.46.120 |
| | 7 35.20.205 | | 13 70.38.911 | 3 | 46.44.180 | 11 | 12.40.030 | 13 | 74.46.130 |
| | 8 46.64.020 | | 14 Eff. date | 4 | Approp. | 12 | Sev. | 14 | 74.46.140 |
| | 9 Eff. date | | 14 70.38.916 | 154 | 1 82.45.020 | 13 | n3.02.010 | 15 | 74.46.150 |
| | n46.63.010 | | 14 70.38.916 | 2 | 82.45.060 | 13 | n3.02.010 | 16 | 74.46.160 |
| | 10 46.63.030 | 140 | 1 n66.12.130 | 3 | 82.45.080 | 14 | Repealer | 17 | 74.46.170 |
| | 11 46.63.140 | | 2 66.12.130 | 4 | 82.45.090 | 163 | 1 82.14.045 | 18 | 74.46.180 |
| | 12 46.20.291 | | 3 66.04.010 | 5 | 82.45.150 | 2 | Approp. | 19 | 74.46.190 |
| | 13 46.63.150 | | 4 66.44.140 | 6 | 82.45.180 | 3 | Em. | 20 | 74.46.200 |
| | 14 3.62.070 | | 5 Em. | 7 | Repealer | 164 | 1 Approp. | 21 | 74.46.210 |
| | 15 46.90.710 | 141 | 1 28A.47B.010 | 8 | 54.28.050 | 2 | Em. | 22 | 74.46.220 |
| | 16 13.40.250 | | 2 28A.47B.020 | 9 | 54.28.090 | 165 | 1 44.60.070 | 23 | 74.46.230 |
| | 17 Sev. | | 3 28A.47B.030 | 10 | 36.33.110 | 2 | 44.60.110 | 24 | 74.46.240 |
| | n46.63.060 | | 4 28A.47B.040 | 11 | 76.12.120 | 166 | 1 82.08.0287 | 25 | 74.46.250 |
| | 18 Eff. date | | 5 28A.47B.050 | 12 | 28A.41.130 | 2 | 82.12.0282 | 26 | 74.46.260 |
| | n43.63.060 | | 6 28A.47B.060 | 13 | 28A.41.143 | 3 | 82.44.015 | 27 | 74.46.270 |
| 129 | 1 51.32.090 | | 7 28A.47B.070 | 14 | Leg. rev. | 4 | Sev. | 28 | 74.46.280 |
| | 2 nCh. 51.04 | | 8 28A.47B.080 | 15 | Savings | 5 | n82.08.0287 | 29 | 74.46.290 |
| | Digest | | 9 Leg. dir. | | nCh. 82.45 | 5 | Exp. date | 30 | 74.46.300 |
| | 3 n51.04.110 | | 10 Approp. | 16 | Digest | 6 | n82.08.0287 | 31 | 74.46.310 |
| | 4 51.16.035 | | 11 Repealer | | Purpose | 167 | 1 Approp. | 32 | 74.46.320 |
| 130 | 1 41.26.560 | | 12 Em. | 17 | nCh. 82.45 | 2 | Em. | 33 | 74.46.330 |
| 131 | 1 82.08.0286 | | n28A.47B.010 | 18 | Digest | 168 | 1 Approp. | 34 | 74.46.340 |
| | 2 82.12.0281 | | 12 82.08.0286 | 17 | 28A.47.073 | 2 | Approp. | 35 | 74.46.350 |
| | 3 82.36.225 | 142 | 1 50.16.010 | 18 | 28A.47.801 | 3 | Approp. | 36 | 74.46.360 |
| | 4 82.38.085 | | 2 Approp. | 19 | Approp. | 4 | Approp. | 37 | 74.46.370 |
| | 5 82.36.280 | | 3 Em. | 20 | Eff. dates | 5 | Approp. | 38 | 74.46.380 |
| | 6 Exp. date | | 1 70.48.260 | | nCh. 82.45 | 6 | Approp. | 39 | 74.46.390 |
| | n82.08.0286 | 143 | 1 70.48.260 | | Digest | 7 | 72.05.010 | 40 | 74.46.400 |
| 132 | 1 81.29.020 | | 2 Approp. | 21 | Sev. | 8 | Approp. | 41 | 74.46.410 |
| | 2 81.80.230 | | 3 Em. | | nCh. 82.45 | 9 | Approp. | 42 | 74.46.420 |
| | 3 81.80.330 | 144 | 1 70.105.130 | | Digest | 10 | Approp. | 43 | 74.46.430 |
| | 4 Eff. date | | 2 70.105.120 | 155 | 1 Intent | 11 | Approp. | 44 | 74.46.440 |
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| | 5 75.28.276 | | 3 10.29.030 | 6 | 73.08.080 | 169 | 1 43.41.130 | 50 | 74.46.500 |
| | 6 75.28.277 | | 4 10.29.040 | 7 | Repealer | 170 | 1 28A.51.010 | 51 | 74.46.510 |
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Parallel Tables: 1980 Regular Session Laws—RCW

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| 62 | 74.46.620 | 19 | 74.42.920 |
| 63 | 74.46.630 | 20 | <i>Approp.</i> |
| 64 | 74.46.640 | 21 | 74.42.630 |
| 65 | 74.46.650 | 22 | <i>Em.</i> |
| 66 | 74.46.660 | | n74.42.920 |
| 67 | 74.46.670 | 185 | 1 <i>Vetoed</i> |
| 68 | 74.46.680 | | 2 <i>Vetoed</i> |
| 69 | 74.46.690 | | 3 84.36.379 |
| 70 | 74.46.700 | | 4 84.36.381 |
| 71 | 74.46.710 | | 5 84.36.383 |
| 72 | 74.46.720 | | 6 84.36.387 |
| 73 | 74.46.730 | | 7 <i>Applic.</i> |
| 74 | 74.46.740 | | n84.36.379 |
| 75 | 74.46.750 | 186 | 1 <i>Vetoed</i> |
| 76 | 74.46.760 | | 2 <i>Vetoed</i> |
| 77 | 74.46.770 | | 3 <i>Vetoed</i> |
| 78 | 74.46.780 | | 4 <i>Vetoed</i> |
| 79 | 74.46.790 | | 5 <i>Vetoed</i> |
| 80 | 74.46.800 | | 6 <i>Vetoed</i> |
| 81 | 74.46.810 | | 7 <i>Vetoed</i> |
| 82 | 74.46.820 | | 8 <i>Vetoed</i> |
| 83 | 74.46.830 | | 9 <i>Vetoed</i> |
| 84 | 74.09.120 | | 10 34.04.045 |
| 85 | 74.42.610 | | 11 34.04.048 |
| 86 | n74.42.610 | | 12 34.04.050 |
| 87 | n74.42.610 | | 13 34.04.052 |
| 88 | <i>Leg. dir.</i> | | 14 34.04.058 |
| 89 | 74.46.902 | | 15 34.08.020 |
| 90 | <i>Repealer</i> | | 16 <i>Vetoed</i> |
| 91 | <i>Approp.</i> | | 17 <i>Vetoed</i> |
| 92 | 74.46.840 | | 18 <i>Vetoed</i> |
| 93 | <i>Sev.</i> | | 19 <i>Vetoed</i> |
| | 74.46.900 | | 20 <i>Vetoed</i> |
| 94 | <i>Eff. dates</i> | | 21 <i>Vetoed</i> |
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| 178 | 1 18.73.210 | | 23 28B.19.033 |
| | 2 18.73.220 | | 24 28B.19.037 |
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| | 4 <i>Approp.</i> | | 26 28B.19.073 |
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| | 2 28A.04.025 | | n34.04.045 |
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| | 8 <i>Sev.</i> | | |
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| 180 | 1 <i>Approp.</i> | | |
| 181 | 1 48.48.060 | | |
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| 182 | 1 41.04.340 | | |
| | 2 <i>Approp.</i> | | |
| | 3 28B.50.551 | | |
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| | 6 28A.21.360 | | |
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| 184 | 1 <i>Vetoed</i> | | |
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| | 4 18.51.290 | | |
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| | 14 74.42.570 | | |
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| | 18 74.42.225 | | |

DISPOSITION OF FORMER RCW SECTIONS

Title 2

COURTS OF RECORD

Chapter 2.48

STATE BAR ACT

2.48.120 Admission of presiding officer of house or senate. [1945 c 181 § 6; Rem. Supp. 1945 § 138-7F.] Repealed by 1980 c 87 § 47.

Title 12

JUSTICE COURTS—CIVIL PROCEDURE

Chapter 12.12

TRIAL

12.12.050 Selection of jury. [1979 ex.s. c 135 § 11; 1888 p 119 § 3; Code 1881 § 1772; 1854 p 235 § 72; RRS § 1851. Cf. Code 1881 §§ 1774, 1775.] Repealed by 1980 c 162 § 14.

Title 18

BUSINESSES AND PROFESSIONS

Chapter 18.25

CHIROPRACTIC

18.25.060 Recording of license—Cancellation for failure. [1919 c 5 § 9; RRS § 10104.] Repealed by 1980 c 51 § 5.

Chapter 18.37

ELECTRICIANS

18.37.010 Definitions. [1979 ex.s. c 156 § 1; 1975-'76 2nd ex.s. c 39 § 1; 1975 1st ex.s. c 70 § 1; 1973 1st ex.s. c 206 § 1.] Repealed by 1980 c 30 § 19. Later enactment, see RCW 19.28.500.

18.37.020 Certificate of competency—Required—Electrical training certificate—Conditions. [1979 ex.s. c 156 § 2; 1975-'76 2nd ex.s. c 39 § 2; 1975 1st ex.s. c 70 § 2; 1973 1st ex.s. c 206 § 2.] Repealed by 1980 c 30 § 19. Later enactment, see RCW 19.28.510.

18.37.030 Application for certificate of competency. [1979 ex.s. c 156 § 3; 1975-'76 2nd ex.s. c 39 § 3; 1973 1st ex.s. c 206 § 3.] Repealed by 1980 c 30 § 19. Later enactment, see RCW 19.28.520.

18.37.040 Examinations—Eligibility—Rules. [1979 ex.s. c 156 § 4; 1975-'76 2nd ex.s. c 39 § 4; 1975 1st ex.s. c 70 § 3; 1973 1st ex.s. c 206 § 4.] Repealed by 1980 c 30 § 19. Later enactment, see RCW 19.28.530.

18.37.050 Examinations—Contents—Times—Fees—Certification of results. [1979 ex.s. c 156 § 5; 1975-'76 2nd ex.s. c 39 § 5; 1973 1st ex.s. c 206 § 5.] Repealed by 1980 c 30 § 19. Later enactment, see RCW 19.28.540.

18.37.060 Certificate of competency—Issuance—Renewal—Fee—Effect. [1975-'76 2nd ex.s. c 39 § 6; 1973 1st ex.s. c 206 § 6.] Repealed by 1980 c 30 § 19. Later enactment, see RCW 19.28.550.

18.37.070 Persons engaged in business or trade as electrician on effective date. [1973 1st ex.s. c 206 § 7.] Repealed by 1980 c 30 § 19. Later enactment, see RCW 19.28.560.

18.37.080 Temporary permits. [1979 ex.s. c 156 § 6; 1975-'76 2nd ex.s. c 39 § 7; 1973 1st ex.s. c 206 § 8.] Repealed by 1980 c 30 § 19. Later enactment, see RCW 19.28.570.

18.37.090 Revocation of certificate of competency—Grounds—Procedure. [1975-'76 2nd ex.s. c 39 § 8; 1973 1st ex.s. c 206 § 9.] Repealed by 1980 c 30 § 19. Later enactment, see RCW 19.28.580.

18.37.100 Advisory board of electricians. [1975-'76 2nd ex.s. c 34 § 36; 1973 1st ex.s. c 206 § 10.] Repealed by 1980 c 30 § 19.

18.37.120 Disposition of fees. [1973 1st ex.s. c 206 § 12.] Repealed by 1980 c 30 § 19.

18.37.130 Powers and duties of director. [1973 1st ex.s. c 206 § 13.] Repealed by 1980 c 30 § 19. Later enactment, see RCW 19.28.600.

18.37.140 Exemptions from chapter requirements. [1979 ex.s. c 156 § 7; 1973 1st ex.s. c 206 § 14.] Repealed by 1980 c 30 § 19. Later enactment, see RCW 19.28.610.

18.37.150 Violations—Penalty. [1979 ex.s. c 156 § 8; 1973 1st ex.s. c 206 § 15.] Repealed by 1980 c 30 § 19. Later enactment, see RCW 19.28.620.

Title 19

BUSINESS REGULATIONS—MISCELLANEOUS

Chapter 19.18

COMIC BOOKS

19.18.010 Declaration of policy. [1955 c 282 § 1.] Repealed by 1980 c 36 § 1.

19.18.020 Declaration of police power—Chapter to be liberally construed. [1955 c 282 § 2.] Repealed by 1980 c 36 § 1.

19.18.030 Definitions. [1955 c 282 § 3.] Repealed by 1980 c 36 § 1.

19.18.040 Supervisor to enforce chapter—Rules—Personnel. [1955 c 282 § 14.] Repealed by 1980 c 36 § 1.

19.18.050 Presumption that minors will read or look at comic books. [1955 c 282 § 5.] Repealed by 1980 c 36 § 1.

19.18.060 Licenses—Compliance required—Penalty. [1955 c 282 § 4.] Repealed by 1980 c 36 § 1.

19.18.070 Licenses—Fees. [1955 c 282 § 6.] Repealed by 1980 c 36 § 1.

19.18.080 Licenses—Dealers—Refusal, suspension, revocation, length of. [1955 c 282 § 10.] Repealed by 1980 c 36 § 1.

19.18.090 Licenses—Wholesale dealers—Refusal, suspension, revocation. [1955 c 282 § 12.] Repealed by 1980 c 36 § 1.

19.18.100 Licenses—Refusal, suspension, revocation—Complaint—Hearing—Appeal. [1955 c 282 § 11.] Repealed by 1980 c 36 § 1.

19.18.110 Copies of comic books to be supplied to supervisor. [1955 c 282 § 13.] Repealed by 1980 c 36 § 1.

19.18.120 Prohibited acts—Dealers. [1955 c 282 § 7.] Repealed by 1980 c 36 § 1.

19.18.130 Prohibited acts—Wholesale dealers—Conditions of sale or delivery. [1955 c 282 § 8.] Repealed by 1980 c 36 § 1.

19.18.140 Penalties. [1955 c 282 § 9.] Repealed by 1980 c 36 § 1.

19.18.900 Severability—1955 c 282. [1955 c 282 § 15.] Repealed by 1980 c 36 § 1.

Title 23A

WASHINGTON BUSINESS CORPORATION ACT

Chapter 23A.40

FEEES AND CHARGES

23A.40.075 Annual license fee constitutes tax on privilege of doing business—Payment required—Failure, existence ceases—Notification—Restoration and reinstatement—Fees. [1979 c 16 § 57; 1975 1st ex.s. c 36 § 1; 1971 ex.s. c 142 § 1; 1969 ex.s. c 92 § 4.] Repealed by 1980 c 99 § 16, effective January 1, 1981.

Effective date—1980 c 99: See note following RCW 23A.08.480.

Title 28A COMMON SCHOOL PROVISIONS

Chapter 28A.41

CURRENT STATE SCHOOL FUND—SCHOOL DISTRICT REIMBURSEMENT PROGRAMS

28A.41.020 Current state school fund—Sources—Required appropriations for school support. [1969 ex.s. c 223 § 28A.41.020. Prior: 1967 c 29 § 2; 1959 c 276 § 1; 1945 c 141 § 1; 1933 c 28 § 4; 1909 c 97 p 320 § 3; prior: 1897 c 118 § 110; 1890 p 373 § 51; 1886 p 20 § 57, part; Code 1881 § 3210, part; 1873 p 421 § 1; Rem. Supp. 1945 § 4940-1. Formerly RCW 28.41.020.] Repealed by 1980 c 6 § 7.

Severability—1980 c 6: See note following RCW 28A.40.100.

28A.41.030 Current state school fund—Certain federal proceeds applied to. [1969 ex.s. c 223 § 28A.41.030. Prior: 1935 c 19 § 1; RRS § 4934-2. Formerly RCW 28.41.030.] Repealed by 1980 c 6 § 7.

Severability—1980 c 6: See note following RCW 28A.40.100.

Chapter 28A.45

EXCISE TAX ON REAL ESTATE SALES

28A.45.010 "Sale" defined. [1970 ex.s. c 65 § 1; 1969 ex.s. c 223 § 28A.45.010. Prior: 1955 c 132 § 1; 1953 c 94 § 1; 1951 2nd ex.s. c 19 § 1; 1951 1st ex.s. c 11 § 7. Formerly RCW 28.45.010.] Recodified as RCW 82.45.010 pursuant to 1980 c 154 § 14, effective September 1, 1981.

28A.45.020 "Seller" defined. [1969 ex.s. c 223 § 28A.45.020. Prior: 1951 1st ex.s. c 11 § 6. Formerly RCW 28.45.020.] Recodified as amended by 1980 c 154 § 1 as RCW 82.45.020 pursuant to 1980 c 154 § 14, effective September 1, 1981.

28A.45.030 "Selling price" defined. [1969 ex.s. c 223 § 28A.45.030. Prior: 1951 2nd ex.s. c 19 § 2; 1951 1st ex.s. c 11 § 8. Formerly RCW 28.45.030.] Recodified as RCW 82.45.030 pursuant to 1980 c 154 § 14, effective September 1, 1981.

28A.45.032 "Real estate", "used mobile home" and "mobile home" defined. [1979 ex.s. c 266 § 1.] Recodified as RCW 82.45.032 pursuant to 1980 c 154 § 14, effective September 1, 1981.

28A.45.035 Determining selling price of leases with option to purchase—Mining property—Payment, security when selling price not separately stated. [1969 ex.s. c 223 § 28A.45.035. Prior: 1967 ex.s. c 149 § 1; 1959 c 208 § 1; 1951 2nd ex.s. c 19 § 3. Formerly RCW 28.45.035.] Recodified as RCW 82.45.035 pursuant to 1980 c 154 § 14, effective September 1, 1981.

28A.45.050 Levy of tax—Rate—Disposition of proceeds. [1977 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.] Repealed by 1980 c 154 § 7, effective September 1, 1981.

Purpose—Effective date—Savings—Disposition of certain funds—Severability—1980 c 154: See notes following chapter 82.45 RCW digest.

28A.45.060 Tax on sale of property located in county. [1969 ex.s. c 223 § 28A.45.060. Prior: 1951 1st ex.s. c 11 § 5. Formerly RCW 28.45.060.] Recodified as amended by 1980 c 154 § 2 as RCW 82.45.060 pursuant to 1980 c 154 § 14, effective September 1, 1981.

28A.45.070 Tax is lien on property—Enforcement. [1969 ex.s. c 223 § 28A.45.070. Prior: 1951 1st ex.s. c 11 § 9. Formerly RCW 28.45.070.] Recodified as RCW 82.45.070 pursuant to 1980 c 154 § 14, effective September 1, 1981.

28A.45.080 Tax is seller's obligation—Choice of remedies. [1969 ex.s. c 223 § 28A.45.080. Prior: 1951 1st ex.s. c 11 § 10. Formerly RCW 28.45.080.] Recodified as amended by 1980 c 154 § 3 as RCW 82.45.080 pursuant to 1980 c 154 § 14, effective September 1, 1981.

28A.45.090 Payment of tax—Evidence of payment—Recording. [1979 ex.s. c 266 § 2; 1969 ex.s. c 223 § 28A.45.090. Prior: 1951

2nd ex.s. c 19 § 4; 1951 1st ex.s. c 11 § 11. Formerly RCW 28.45.090.] Recodified as amended by 1980 c 154 § 4 as RCW 82.45.090 pursuant to 1980 c 154 § 14, effective September 1, 1981.

28A.45.100 Interest on delinquent taxes—Reporting sales—Procedures. [1969 ex.s. c 223 § 28A.45.100. Prior: 1951 1st ex.s. c 11 § 12. Formerly RCW 28.45.100.] Repealed by 1980 c 154 § 7, effective September 1, 1981.

Purpose—Effective date—Savings—Disposition of certain funds—Severability—1980 c 154: See notes following chapter 82.45 RCW digest.

28A.45.105 Single family residential property, tax credit when subsequent transfer of within nine months for like property. [1969 ex.s. c 223 § 28A.45.105. Prior: 1967 ex.s. c 149 § 61. Formerly RCW 28.45.105.] Recodified as RCW 82.45.105 pursuant to 1980 c 154 § 14, effective September 1, 1981.

28A.45.120 Standards for reporting, application and collection of tax—Real estate excise tax affidavit form, contents, use. [1980 c 134 § 1; 1969 ex.s. c 223 § 28A.45.120. Prior: 1967 ex.s. c 149 § 3. Formerly RCW 28.45.120.] Recodified as RCW 82.45.120 pursuant to 1980 c 154 § 14, effective September 1, 1981.

Chapter 28A.47A

SCHOOL PLANT FACILITIES AID—1979 BOND ISSUE FOR CONSTRUCTION OF COMMON SCHOOL PLANT FACILITIES

28A.47A.010 Bonds authorized—Series I and II, amounts—Sale, conditions. [1979 ex.s. c 241 § 1.] Repealed by 1980 c 141 § 11.

28A.47A.020 Bond anticipation notes—Authorized—Payment. [1979 ex.s. c 241 § 2.] Repealed by 1980 c 141 § 11.

28A.47A.030 Form, terms, conditions, sale and covenants of bonds and notes. [1979 ex.s. c 241 § 3.] Repealed by 1980 c 141 § 11.

28A.47A.040 Disposition of proceeds from sale of bonds and notes—Use. [1979 ex.s. c 241 § 4.] Repealed by 1980 c 141 § 11.

28A.47A.050 Common school building bond retirement fund of 1979—Created—Purpose—Payment of principal and interest on bonds, procedure. [1979 ex.s. c 241 § 5.] Repealed by 1980 c 141 § 11.

28A.47A.060 Moneys transferred from common school construction fund to general fund. [1979 ex.s. c 241 § 6.] Repealed by 1980 c 141 § 11.

28A.47A.070 Bonds as legal investment for public funds. [1979 ex.s. c 241 § 7.] Repealed by 1980 c 141 § 11.

28A.47A.080 Prerequisite to issuance of Series I bonds. [1979 ex.s. c 241 § 8.] Repealed by 1980 c 141 § 11.

28A.47A.090 Chapter provisions as limited by and subordinate to other statutes, covenants and proceedings. [1979 ex.s. c 241 § 9.] Repealed by 1980 c 141 § 11.

28A.47A.100 Proceeds from Series II bonds as compensation for sale of timber from trust lands. [1979 ex.s. c 241 § 10.] Repealed by 1980 c 141 § 11.

28A.47A.110 Debt service requirements included within state's debt limitations. [1979 ex.s. c 241 § 11.] Repealed by 1980 c 141 § 11.

Chapter 28A.60

PROVISIONS APPLICABLE ONLY TO SECOND AND THIRD CLASS DISTRICTS

28A.60.355 Beneficial interests in contracts prohibited—Exception. [1975 1st ex.s. c 41 § 3.] Repealed by 1980 c 39 § 2.

Chapter 28A.91

WASHINGTON STATE EDUCATIONAL TELEVISION COMMISSION

28A.91.010 Commission created. [1969 ex.s. c 223 § 28A.91.010. Prior: 1965 ex.s. c 129 § 1. Formerly RCW 28.91.010.] Repealed by 1980 c 123 § 12.

28A.91.020 Members—Appointment—Qualifications. [1969 ex.s. c 223 § 28A.91.020. Prior: 1965 ex.s. c 129 § 2. Formerly RCW 28.91.020.] Repealed by 1980 c 123 § 12.

28A.91.030 Members—Terms. [1969 ex.s. c 223 § 28A.91.030. Prior: 1965 ex.s. c 129 § 3. Formerly RCW 28.91.030.] Repealed by 1980 c 123 § 12.

28A.91.040 Vacancies, filling of. [1969 ex.s. c 223 § 28A.91.040. Prior: 1965 ex.s. c 129 § 4. Formerly RCW 28.91.040.] Repealed by 1980 c 123 § 12.

28A.91.050 Commission offices—Reimbursement of travel expenses of members. [1975-'76 2nd ex.s. c 34 § 70; 1969 ex.s. c 223 § 28A.91.050. Prior: 1965 ex.s. c 129 § 5. Formerly RCW 28.91.050.] Repealed by 1980 c 123 § 12.

28A.91.060 Commission duties. [1977 c 75 § 19; 1969 ex.s. c 223 § 28A.91.060. Prior: 1965 ex.s. c 129 § 6. Formerly RCW 28.91.060.] Repealed by 1980 c 123 § 12.

Title 34

ADMINISTRATIVE LAW

Chapter 34.04

ADMINISTRATIVE PROCEDURE ACT

34.04.160 Legislative review of rules. [1963 c 186 § 1.] Repealed by 1980 c 186 § 28.

Reviser's note: This section was also amended by 1980 c 87 § 12 without cognizance of the repeal thereof.

Title 35

CITIES AND TOWNS

Chapter 35.39

FISCAL—FINANCE COMMITTEE—INVESTMENT OF FUNDS

35.39.040 Investment of pension funds. [1969 ex.s. c 211 § 1; 1965 c 19 § 1; 1965 c 7 § 35.39.040. Prior: 1961 c 212 § 1; 1951 c 275 § 1; 1943 c 92 § 2; Rem. Supp. 1943 § 5646-14.] Repealed by 1980 c 34 § 2.

Title 36

COUNTIES

Chapter 36.77

ROADS AND BRIDGES—CONSTRUCTION

36.77.050 Limitation on award of contract. [1963 c 4 § 36.77.050. Prior: 1937 c 187 § 33; RRS § 6450-33.] Repealed by 1980 c 93 § 2.

36.77.060 Minor projects by day labor. [1977 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.] Repealed by 1980 c 40 § 2, effective January 1, 1981.

Title 41

PUBLIC EMPLOYMENT, CIVIL SERVICE AND PENSIONS

Chapter 41.04

GENERAL PROVISIONS

41.04.060 Reports required. [1977 c 75 § 33; 1949 c 78 § 3; Rem. Supp. 1949 § 107260.] Repealed by 1980 c 29 § 3.

Repeal—Savings—1980 c 29: "(1) The following acts or parts of acts are hereby repealed:

(a) Section 3, chapter 78, Laws of 1949, section 33, chapter 75, Laws of 1977 and RCW 41.04.060;

(b) Section 1, chapter 98, Laws of 1951 and RCW 41.04.070;

(c) Section 2, chapter 98, Laws of 1951 and RCW 41.04.080;

(d) Section 3, chapter 98, Laws of 1951 and RCW 41.04.090; and

(e) Section 4, chapter 98, Laws of 1951 and RCW 41.04.100.

(2) These repeals shall not be construed as affecting any existing right acquired under the statutes repealed or under any rule, regulation, or order adopted pursuant thereto; nor as affecting any proceeding instituted thereunder." [1980 c 29 § 3.]

41.04.070 Persons employed by more than one agency—Service credits—Intent of provisions. [1951 c 98 § 1.] Repealed by 1980 c 29 § 3.

Repeal—Savings—1980 c 29: See note following RCW 41.04-.060 in disposition table above.

41.04.080 Persons employed by more than one agency—Retention of service credit on transfer of employment. [1951 c 98 § 2.] Repealed by 1980 c 29 § 3.

Repeal—Savings—1980 c 29: See note following RCW 41.04-.060 in disposition table above.

41.04.090 Persons employed by more than one agency—Recovery of service credit may be allowed. [1951 c 98 § 3.] Repealed by 1980 c 29 § 3.

Repeal—Savings—1980 c 29: See note following RCW 41.04-.060 in disposition table above.

41.04.100 Persons employed by more than one agency—May receive pensions from more than one system. [1951 c 98 § 4.] Repealed by 1980 c 29 § 3.

Repeal—Savings—1980 c 29: See note following RCW 41.04-.060 in disposition table above.

Chapter 41.36

RETIREMENT AND DISABILITY PAYMENTS IN FIRST CLASS SCHOOL DISTRICTS

41.36.010 Definitions. [1941 c 243 § 2; Rem. Supp. 1941 § 4995-17.] Repealed by 1980 c 29 § 2.

Repeal—Savings—1980 c 29: "(1) The following acts or parts of acts are hereby repealed:

(a) Section 2, chapter 243, Laws of 1941 and RCW 41.36.010;

(b) Section 1, chapter 243, Laws of 1941 and RCW 41.36.020;

(c) Section 3, chapter 243, Laws of 1941 and RCW 41.36.030; and

(d) Section 4, chapter 243, Laws of 1941 and RCW 41.36.040.

(2) These repeals shall not be construed as affecting any existing right acquired under the statutes repealed or under any rule, regulation, or order adopted pursuant thereto; nor as affecting any proceeding instituted thereunder." [1980 c 29 § 2.]

41.36.020 Authority to make payments conferred. [1941 c 243 § 1; Rem. Supp. 1941 § 4995-16.] Repealed by 1980 c 29 § 2.

Repeal—Savings—1980 c 29: See note following RCW 41.36-.010 in disposition table above.

41.36.030 Eligibility of recipients. [1941 c 243 § 3; Rem. Supp. 1941 § 4995-18.] Repealed by 1980 c 29 § 2.

Repeal—Savings—1980 c 29: See note following RCW 41.36-.010 in disposition table above.

41.36.040 Rules and regulations. [1941 c 243 § 4; Rem. Supp. 1941 § 4995-19.] Repealed by 1980 c 29 § 2.

Repeal—Savings—1980 c 29: See note following RCW 41.36-.010 in disposition table above.

Title 43

STATE GOVERNMENT—EXECUTIVE

Chapter 43.74

BASIC SCIENCE LAW

43.74.030 Scope of examinations. [1965 c 8 § 43.74.030. Prior: 1955 c 192 § 8; 1927 c 183 § 3; RRS § 10185-3.] Repealed by 1980 c 26 § 1.

Chapter 43.75

STATE BUILDING AUTHORITY—INDEBTEDNESS—REFUNDING—BOND ISSUE

43.75.220 Building authority construction account—Created—Funds. [1973 c 9 § 4.] Repealed by 1980 c 32 § 17, effective September 1, 1981.

Repealer—1980 c 32: "Section 4, chapter 9, Laws of 1973 and RCW 43.75.220 are each hereby repealed, effective September 1, 1981. Any moneys held on that date in the account disestablished by

the repeal of RCW 43.75.220 shall be transferred to the state building authority bond redemption fund." [1980 c 32 § 17.]

Title 46
MOTOR VEHICLES

Chapter 46.61
RULES OF THE ROAD

46.61.010 Required obedience to traffic laws—Penalties. [1975-'76 2nd ex.s. c 95 § 1; 1965 ex.s. c 155 § 2.] Repealed by 1979 ex.s. c 136 § 109, effective January 1, 1981. Later enactment, see RCW 46.63.020.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Chapter 46.90
WASHINGTON MODEL TRAFFIC ORDINANCE

46.90.330 Authority to remove and impound vehicles on public property—Procedure. [1975 1st ex.s. c 54 § 51.] Repealed by 1980 c 65 § 9.

46.90.350 Removal and storage of vehicle or hulk—Lien—Notices—Contents. [1975 1st ex.s. c 54 § 55.] Repealed by 1980 c 65 § 9.

46.90.355 Sale of unclaimed vehicle or hulk—Procedure—Proceeds—Deficiency. [1975 1st ex.s. c 54 § 56.] Repealed by 1980 c 65 § 9.

46.90.360 Vehicle left in garage for storage—When deemed abandoned—Notices—Disposal. [1975 1st ex.s. c 54 § 57.] Repealed by 1980 c 65 § 9.

46.90.365 Disposition of impounded vehicles—When vehicles deemed abandoned—Procedure. [1975 1st ex.s. c 54 § 58.] Repealed by 1980 c 65 § 9.

46.90.370 Abatement and removal of automobile hulks on private property—Contents. [1975 1st ex.s. c 54 § 59.] Repealed by 1980 c 65 § 9.

46.90.380 Unlawful to abandon junked motor vehicle. [1975 1st ex.s. c 54 § 61.] Repealed by 1980 c 65 § 9.

Title 47
PUBLIC HIGHWAYS AND TRANSPORTATION
(Formerly: Public Highways)

Chapter 47.60
PUGET SOUND FERRY AND TOLL BRIDGE SYSTEM

47.60.670 Ferry construction contract negotiations—Preference for Washington firm. [1977 ex.s. c 166 § 8.] Repealed by 1980 c 2 § 4.

Title 48
INSURANCE

Chapter 48.09
MUTUAL INSURERS

48.09.081 Requirements—Kinds of insurance. [1957 c 193 § 4.] Repealed by 1980 c 135 § 3.

Title 66
ALCOHOLIC BEVERAGE CONTROL

Chapter 66.44
ENFORCEMENT—PENALTIES

66.44.315 Musicians eighteen years and older permitted to enter and remain upon licensed premises during employment. [1969 ex.s. c 250 § 1.] Repealed by 1980 c 22 § 2.

[1980 RCW Supp—p A22]

Title 70
PUBLIC HEALTH AND SAFETY

Chapter 70.38
HEALTH PLANNING AND RESOURCES DEVELOPMENT
(Formerly: Comprehensive health planning)

70.38.075 State medical facilities plan. [1979 ex.s. c 161 § 7.] Repealed by 1980 c 139 § 13.

Title 74
PUBLIC ASSISTANCE

Chapter 74.09
MEDICAL CARE

74.09.550 Nursing homes, reports, audits, rates—Legislative declaration. [1977 ex.s. c 260 § 1.] Repealed by 1980 c 177 § 90, effective July 1, 1982.

74.09.560 Nursing homes—Annual cost reports to be audited by department of social and health services. [1977 ex.s. c 260 § 2.] Repealed by 1980 c 177 § 90, effective July 1, 1982.

74.09.570 Audit disallowances—Procedures—Availability of certain information on nursing homes. [1977 ex.s. c 260 § 3.] Repealed by 1980 c 177 § 90, effective July 1, 1982.

74.09.580 Nursing home payment system—Individually-based and class-based rates—Refunds. [1977 ex.s. c 260 § 4.] Repealed by 1980 c 177 § 90, effective July 1, 1982.

74.09.590 Payment rates—Conditions. [1977 ex.s. c 260 § 5.] Repealed by 1980 c 177 § 90, effective July 1, 1982.

Chapter 74.16
AID TO BLIND PERSONS—WASHINGTON STATE COMMISSION FOR THE BLIND

74.16.190 Home industries revolving fund. [1977 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.] Repealed by 1980 c 32 § 16.

Title 75
FOOD FISH AND SHELLFISH

Chapter 75.32
PRIVILEGE FEES AND FISH SALES TAXES

Reviser's note: Chapter 75.32 RCW was repealed by 1980 c 98 § 10 which also contained a savings clause and authority to exercise for four years the powers and duties under RCW 75.32.090 through 75.32.130 for administration of taxes due before July 1, 1980. For text of RCW 75.32.090 through 75.32.130 see volume 6 of the 1979 Revised Code of Washington. 1980 c 98 § 10 has been set out in a note following the chapter 82.27 RCW digest.

75.32.001 "Primary market value" defined. [1965 ex.s. c 71 § 1.] Repealed by 1980 c 98 § 10. Later enactment, see chapter 82.27 RCW.

75.32.003 "Food fish and shellfish" include parts. [1977 ex.s. c 327 § 25.] Repealed by 1980 c 98 § 10. Later enactment, see chapter 82.27 RCW.

75.32.020 Privilege fees and fish sales taxes required. [1977 ex.s. c 327 § 19; 1955 c 12 § 75.32.020. Prior: 1949 c 107 § 1, part; Rem. Supp. 1949 § 5780-60, part.] Repealed by 1980 c 98 § 10. Later enactment, see chapter 82.27 RCW.

75.32.030 Canners, processors, dealers—Privilege fees—Exceptions. [1979 ex.s. c 203 § 1; 1977 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).] Repealed by 1980 c 98 § 10. Later enactment, see chapter 82.27 RCW.

75.32.033 Credits against privilege fees owed under RCW 75.32-.030. [1977 ex.s. c 327 § 23.] Repealed by 1980 c 98 § 10. Later enactment, see chapter 82.27 RCW.

75.32.035 Rules as to proof required for credits claimed under RCW 75.32.033. [1977 ex.s. c 327 § 24.] Repealed by 1980 c 98 § 10. Later enactment, see chapter 82.27 RCW.

75.32.051 Oyster canners, processors, dealers—Privilege fee. [1977 ex.s. c 327 § 21; 1955 c 212 § 13.] Repealed by 1980 c 98 § 10. Later enactment, see chapter 82.27 RCW.

75.32.055 Fish sales tax—Imposed—Rates—Exemptions. [1977 ex.s. c 327 § 22.] Repealed by 1980 c 98 § 10. Later enactment, see chapter 82.27 RCW.

75.32.065 Payment of privilege fees and fish sales tax—Food fish or shellfish handled by original receivers—Sales to nonresident purchasers. [1977 ex.s. c 327 § 26.] Repealed by 1980 c 98 § 10. Later enactment, see chapter 82.27 RCW.

75.32.080 Collection of fish sales tax by original receiver—"Original receiver" defined. [1977 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.] Repealed by 1980 c 98 § 10. Later enactment, see chapter 82.27 RCW.

75.32.090 When privilege fees and fish sales taxes due and payable—Returns. [1977 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.] Repealed by 1980 c 98 § 10. Later enactment, see chapter 82.27 RCW.

75.32.101 Delinquent payments—Penalties—Interest—Lien—Date of filing governed by postmark. [1977 ex.s. c 327 § 29; 1963 ex.s. c 9 § 2.] Repealed by 1980 c 98 § 10. Later enactment, see chapter 82.27 RCW.

75.32.110 Director may make rules, etc., to insure payment of fees and taxes. [1977 ex.s. c 327 § 30; 1955 c 12 § 75.32.110. Prior: 1949 c 107 § 4; Rem. Supp. 1949 § 5780-63.] Repealed by 1980 c 98 § 10. Later enactment, see chapter 82.27 RCW.

75.32.115 Audits—Rules and procedures. [1977 ex.s. c 327 § 31.] Repealed by 1980 c 98 § 10. Later enactment, see chapter 82.27 RCW.

75.32.120 Penalty for violations. [1955 c 12 § 75.32.120. Prior: 1949 c 107 § 5; Rem. Supp. 1949 § 5780-64.] Repealed by 1980 c 98 § 10. Later enactment, see chapter 82.27 RCW.

75.32.130 Director may require bond after wilful violation—License revocation for failure. [1955 c 12 § 75.32.130. Prior: 1949 c 107 § 6; Rem. Supp. 1949 § 5780-65.] Repealed by 1980 c 98 § 10. Later enactment, see chapter 82.27 RCW.

Title 76

FORESTS AND FOREST PRODUCTS

Chapter 76.04

FOREST PROTECTION

76.04.480 Olympic peninsula area protection—Penalty for violation of rules. [1979 ex.s. c 136 § 105; 1923 c 143 § 3; 1921 c 67 § 4; RRS § 5821.] Repealed by 1980 c 148 § 5, effective January 1, 1981. [1923 c 143 § 3; 1921 c 67 § 4; RRS § 5821.] Repealed by 1979 ex.s. c 8 § 3.

Title 77

GAME AND GAME FISH

Chapter 77.04

DEPARTMENT OF GAME

77.04.050 Removal of members. [1955 c 36 § 77.04.050. Prior: 1947 c 275 § 5; Rem. Supp. 1947 § 5992-15.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

Chapter 77.08

GENERAL TERMS DEFINED

77.08.040 "Deleterious exotic species of fish and wildlife". [1971 ex.s. c 166 § 2.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.08.050 "Managed marine mammals". [1971 ex.s. c 166 § 5.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.08.060 "Wildlife agent". [1971 ex.s. c 121 § 1.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

Chapter 77.12

POWERS AND DUTIES OF COMMISSION

Sections

77.12.050 Rules and regulations—How promulgated—Certified copy as evidence. [1955 c 36 § 77.12.050. Prior: 1947 c 275 § 15; Rem. Supp. 1947 § 5992-25.] Decodified and recodified as RCW 77.04.090 pursuant to 1980 c 78 § 7, effective July 1, 1981.

77.12.110 Disposition of forfeited articles. [1955 c 36 § 77.12.110. Prior: 1947 c 275 § 21; Rem. Supp. 1947 § 5992-31.] Decodified and recodified as RCW 77.21.040 pursuant to 1980 c 78 § 97, effective July 1, 1981.

77.12.160 Notice of seasons and bag limits—Publication. [1975 1st ex.s. c 102 § 2; 1955 c 36 § 77.12.160. Prior: 1947 c 275 § 26; Rem. Supp. 1947 § 5992-36.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.12.173 Penalty assessments upon fines and forfeitures—Deposit in state game fund. [1975 c 57 § 1.] Decodified and recodified as RCW 77.21.050 pursuant to 1980 c 78 § 97, effective July 1, 1981.

77.12.175 Personalized license plates—Use of fees for support and aid of wildlife resources—Purpose of act. [1975 c 59 § 7; 1973 1st ex.s. c 200 § 1.] Decodified by 1980 c 78 § 32, effective July 1, 1981.

77.12.205 Disposition of in lieu payments. [1965 ex.s. c 97 § 4.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.12.207 Payments to counties of costs of confining violators. [1965 ex.s. c 97 § 5.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.12.310 Rules and regulations governing taking of predators for bounty. [1955 c 36 § 77.12.310. Prior: 1947 c 275 § 36; Rem. Supp. 1947 § 5992-46.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.12.340 Acquisition of property for office, storage, warehouse, and garage facilities. [1955 c 36 § 77.12.340. Prior: 1947 c 138 § 1; Rem. Supp. 1947 § 10898-35.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.12.350 Construction of facilities authorized. [1955 c 36 § 77.12.350. Prior: 1947 c 138 § 2; Rem. Supp. 1947 § 10898-36.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.12.400 Lease of certain state lands as game lands authorized. [1955 c 36 § 77.12.400. Prior: 1949 c 238 § 8.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.12.410 Grazing of cattle on such state lands—Limitation of elk population. [1955 c 36 § 77.12.410. Prior: 1949 c 238 § 9.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.12.460 Snake river forming boundary with Idaho—Unlawful acts in violation of Idaho or Washington laws or regulations. [1967 c 62 § 2.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.12.500 Agreements with owners or lessees of real property for use for public hunting or fishing. [1967 c 45 § 1.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.12.510 Managed marine mammals—Rules and regulations as to capture, sale, confinement, etc.—Permits. [1971 ex.s. c 166 § 6.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.12.520 Publication of informational materials—Costs. [1979 c 56 § 2.] Decodified and recodified as RCW 77.12.185 pursuant to 1980 c 78 § 33, effective July 1, 1981.

Chapter 77.16

PROHIBITED ACTS AND PENALTIES

77.16.030 Possession during closed season or in excess of bag limits. [1977 c 44 § 2; 1955 c 36 § 77.16.030. Prior: 1947 c 275 § 42; Rem. Supp. 1947 § 5992-51.] Decodified and recodified as RCW 77.12.105 pursuant to 1980 c 78 § 24, effective July 1, 1981.

77.16.140 Giving misinformation as to bountied predator. [1955 c 36 § 77.16.140. Prior: 1947 c 275 § 53; Rem. Supp. 1947 § 5992-62.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.16.157 Penalty for violations. [1955 c 36 § 77.16.157. Prior: 1951 c 126 § 3.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.16.158 Importation, possession, sale, exchange, etc., of deleterious exotic species of fish or wildlife—Penalty. [1971 ex.s. c 166 § 3.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.16.200 Private publication of game laws. [1955 c 36 § 77.16.200. Prior: 1947 c 275 § 59; Rem. Supp. 1947 § 5992-68.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.16.221 Director may modify, etc., inadequate fishways and protective devices. [1963 c 152 § 1.] Decodified and recodified as RCW 77.12.425 pursuant to 1980 c 78 § 68, effective July 1, 1981.

77.16.230 Game doing damage may be taken at any time—Limitations. [1955 c 36 § 77.16.230. Prior: 1949 c 238 § 2; 1947 c 275 § 62; Rem. Supp. 1949 § 5992-71.] Decodified and recodified as RCW 77.12.265 pursuant to 1980 c 78 § 44, effective July 1, 1981.

77.16.240 General penalty—Jurisdiction of courts. [1955 c 36 § 77.16.240. Prior: 1947 c 275 § 63; Rem. Supp. 1947 § 5992-72.] Decodified and recodified as RCW 77.21.010 pursuant to 1980 c 78 § 97, effective July 1, 1980.

77.16.270 Enforcement. [1955 c 36 § 77.16.270. Prior: 1947 c 126 § 3; Rem. Supp. 1947 § 2545-3.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.16.280 Penalty. [1955 c 36 § 77.16.280. Prior: 1947 c 126 § 4; Rem. Supp. 1947 § 2545-4.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.16.300 Venue of prosecution. [1955 c 36 § 77.16.300. Prior: 1947 c 126 § 6; Rem. Supp. 1947 § 2545-6.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

Chapter 77.20

BEAVER

77.20.010 Beaver may be taken or possessed—Pelts may be sold. [1963 c 177 § 1; 1955 c 36 § 77.20.010. Prior: 1947 c 275 § 64; Rem. Supp. 1947 § 5992-73.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.20.015 Licensed residents may take—Beaver tags required, fee, style, duration. [1975 1st ex.s. c 15 § 1; 1963 c 177 § 10.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

Reviser's note: This section was also amended by 1980 c 24 § 1 without cognizance of the repeal thereof.

77.20.016 Beaver tags—Possession, attachment—Purchase of untagged skin—Penalty. [1963 c 177 § 11.] Repealed by 1980 c 24 § 3, effective June 12, 1980; and repealed by 1980 c 78 § 140, effective July 1, 1981.

77.20.020 Rules and regulations—Cooperative agreements. [1963 c 177 § 2; 1955 c 36 § 77.20.020. Prior: 1947 c 275 § 65; Rem. Supp. 1947 § 5992-74.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.20.030 Beaver skins, disposal of. [1963 c 177 § 3; 1955 c 36 § 77.20.030. Prior: 1947 c 275 § 66; Rem. Supp. 1947 § 5992-75.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.20.040 Taking of beaver doing damage on private lands—On public lands—By commission. [1963 c 177 § 4; 1955 c 36 § 77.20.040. Prior: 1947 c 275 § 67; Rem. Supp. 1947 § 5992-76.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.20.045 Taking of beaver doing damage—By owner or occupant—Notice—Surrender of pelts. [1963 c 177 § 5; 1955 c 36 §

77.20.045. Prior: 1951 c 262 § 1.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.20.050 Preservation, tagging, of skins. [1963 c 177 § 6; 1955 c 36 § 77.20.050. Prior: 1947 c 275 § 68; Rem. Supp. 1947 § 5992-77.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.20.060 Penalty. [1955 c 36 § 77.20.060. Prior: 1947 c 275 § 69; Rem. Supp. 1947 § 5992-78.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

Chapter 77.24

PREDATORS—BOUNTIES

77.24.010 Who may kill predators and claim bounties. [1955 c 36 § 77.24.010. Prior: 1947 c 275 § 72; Rem. Supp. 1947 § 5992-81.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.24.020 Payment of bounties—Maximum specified—Review. [1955 c 36 § 77.24.020. Prior: 1947 c 275 § 73; Rem. Supp. 1947 § 5992-82.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.24.030 Marking of bountied predators. [1955 c 36 § 77.24.030. Prior: 1947 c 275 § 74; Rem. Supp. 1947 § 5992-83.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.24.040 Commission may classify predators. [1955 c 36 § 77.24.040. Prior: 1947 c 275 § 75; Rem. Supp. 1947 § 5992-84.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.24.050 Employment of accredited hunters. [1955 c 36 § 77.24.050. Prior: 1947 c 275 § 76; Rem. Supp. 1947 § 5992-85.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.24.060 Disposition of skins and specimens. [1955 c 36 § 77.24.060. Prior: 1947 c 275 § 77; Rem. Supp. 1947 § 5992-86.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.24.070 Scope of chapter. [1955 c 36 § 77.24.070. Prior: 1947 c 275 § 78; Rem. Supp. 1947 § 5992-87.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.24.080 Bounty voucher must aggregate two dollars and fifty cents. [1955 c 36 § 77.24.080. Prior: 1947 c 275 § 79; Rem. Supp. 1947 § 5992-88.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.24.090 Cooperative programs to control predators. [1955 c 36 § 77.24.090. Prior: 1947 c 275 § 80; Rem. Supp. 1947 § 5992-89.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.24.100 Department of agriculture may cooperate with Fish and Wildlife Service. [1955 c 36 § 77.24.100. Prior: 1943 c 257 § 1; Rem. Supp. 1943 § 5992-2.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.24.110 Expenditures authorized. [1955 c 36 § 77.24.110. Prior: 1943 c 257 § 2; Rem. Supp. 1943 § 5992-3.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.24.120 Disposition of skins and specimens. [1955 c 36 § 77.24.120. Prior: 1943 c 257 § 3; Rem. Supp. 1943 § 5992-4.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

Chapter 77.28

GAME FARMERS

77.28.010 License required. [1955 c 36 § 77.28.010. Prior: 1947 c 275 § 81; Rem. Supp. 1947 § 5992-90.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.28.020 License fee. [1975 1st ex.s. c 15 § 2; 1970 ex.s. c 29 § 14; 1955 c 36 § 77.28.020. Prior: 1947 c 275 § 82; Rem. Supp. 1947 § 5992-91.] Decodified and recodified as RCW 77.12.570 pursuant to 1980 c 78 § 68, effective July 1, 1981.

77.28.030 Application—Content. [1955 c 36 § 77.28.030. Prior: 1947 c 275 § 83; Rem. Supp. 1947 § 5992-92.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.28.040 Corporate application. [1955 c 36 § 77.28.040. Prior: 1947 c 275 § 84; Rem. Supp. 1947 § 5992-93.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.28.050 Issuance of license. [1955 c 36 § 77.28.050. Prior: 1947 c 275 § 85; Rem. Supp. 1947 § 5992-94.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.28.060 Rights acquired under license. [1955 c 36 § 77.28.060. Prior: 1947 c 275 § 86; Rem. Supp. 1947 § 5992-95.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.28.070 Game farmer may deal in game bird and game fish eggs. [1955 c 36 § 77.28.070. Prior: 1947 c 275 § 87; Rem. Supp. 1947 § 5992-96.] Decodified and recodified as RCW 77.12.580 pursuant to 1980 c 78 § 68, effective July 1, 1981.

77.28.080 Tagging of product. [1955 c 36 § 77.28.080. Prior: 1947 c 275 § 88; Rem. Supp. 1947 § 5992-97.] Decodified and recodified as RCW 77.12.590 pursuant to 1980 c 78 § 68, effective July 1, 1981.

77.28.090 Rights of common carriers. [1955 c 36 § 77.28.090. Prior: 1947 c 275 § 89; Rem. Supp. 1947 § 5992-98.] Decodified and recodified as RCW 77.12.600 pursuant to 1980 c 78 § 68, effective July 1, 1981.

77.28.100 Quarterly reports. [1955 c 36 § 77.28.100. Prior: 1947 c 275 § 90; Rem. Supp. 1947 § 5992-99.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.28.110 Access to game farmers' premises. [1955 c 36 § 77.28.110. Prior: 1947 c 275 § 91; Rem. Supp. 1947 § 5992-100.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.28.120 Revocation of license—Notice—Hearing. [1955 c 36 § 77.28.120. Prior: 1947 c 275 § 92; Rem. Supp. 1947 § 5992-101.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

Chapter 77.32 LICENSES

77.32.015 Firearm training program—Certificate—Juvenile requirements. [1957 c 17 § 1.] Decodified and recodified as RCW 77.32.155 pursuant to 1980 c 78 § 111, effective July 1, 1981.

77.32.032 Supplemental steelhead seal—Fee, exempt persons, disposition of moneys from—Penalty. [1975 1st ex.s. c 15 § 19.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.32.080 Records and reports. [1955 c 36 § 77.32.080. Prior: 1947 c 275 § 100; Rem. Supp. 1947 § 5992-109.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.32.104 Resident state hunting license. [1975 1st ex.s. c 15 § 21.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.32.106 Resident state fishing license. [1975 1st ex.s. c 15 § 22.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.32.111 Resident county hunting and fishing license. [1975 1st ex.s. c 15 § 23.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.32.114 Resident county fishing license. [1975 1st ex.s. c 15 § 24.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.32.120 Allocation of receipts from resident licenses. [1955 c 36 § 77.32.120. Prior: 1953 c 66 § 1; 1947 c 128 § 3; Rem. Supp. 1947 § 5897-3.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.32.131 Nonresident state hunting license. [1975 1st ex.s. c 15 § 25.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.32.151 Nonresident state fishing license. [1975 1st ex.s. c 15 § 26.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.32.185 Fresh water sport fishing licenses—Use of funds. [1955 c 36 § 77.32.185. Prior: 1951 c 124 § 2.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.32.195 Nonresident's or alien's trapper's license. [1975 1st ex.s. c 15 § 14.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.32.201 Taxidermist's license. [1975 1st ex.s. c 15 § 29.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.32.226 Fishing guide license—Rules, records, reports. [1975 1st ex.s. c 15 § 31.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.32.245 Killer whale permit. [1971 ex.s. c 166 § 7.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.32.260 Forfeiture of license by judicial decree. [1955 c 36 § 77.32.260. Prior: 1947 c 275 § 115; Rem. Supp. 1947 § 5992-124.] Decodified and recodified as RCW 77.21.060 pursuant to 1980 c 78 § 97, effective July 1, 1981.

77.32.270 Suspension of sentence. [1955 c 36 § 77.32.270. Prior: 1947 c 275 § 116; Rem. Supp. 1947 § 5992-125.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

77.32.280 Revocation for shooting person or livestock. [1955 c 36 § 77.32.280. Prior: 1949 c 44 § 1; Rem. Supp. 1949 § 5992-124a.] Decodified and recodified as RCW 77.21.030 pursuant to 1980 c 78 § 97, effective July 1, 1981.

77.32.290 Revocation of hunting license for violation of RCW 77.16.020 or 77.16.030—Appeal. [1975 1st ex.s. c 6 § 1.] Decodified and recodified as RCW 77.21.020 pursuant to 1980 c 78 § 97, effective July 1, 1981.

77.32.300 Unlawful purchase or possession of game license or other document—Penalty. [1979 ex.s. c 127 § 1.] Decodified and recodified as RCW 77.16.310 pursuant to 1980 c 78 § 96, effective July 1, 1981.

Chapter 77.40 SHOOTING GROUNDS

77.40.010 Public shooting grounds—Skagit county. [1955 c 36 § 77.40.010. Prior: 1941 c 165 § 1; Rem. Supp. 1941 § 7993-4.] Decodified by 1980 c 78 § 136, effective July 1, 1981.

77.40.030 Deed of tidelands—Mason county. [1955 c 36 § 77.40.030. Prior: 1941 c 190 § 1; Rem. Supp. 1941 § 7993-6.] Decodified by 1980 c 78 § 136, effective July 1, 1981.

77.40.040 Governor to execute deed. [1955 c 36 § 77.40.040. Prior: 1941 c 190 § 2; Rem. Supp. 1941 § 7993-7.] Decodified by 1980 c 78 § 136, effective July 1, 1981.

77.40.050 Use as public shooting grounds. [1955 c 36 § 77.40.050. Prior: 1941 c 190 § 3; Rem. Supp. 1941 § 7993-8.] Decodified and recodified as RCW 77.12.550 pursuant to 1980 c 78 § 58, effective July 1, 1981.

77.40.060 Rules and regulations. [1955 c 36 § 77.40.060. Prior: 1941 c 190 § 4; Rem. Supp. 1941 § 7993-9.] Decodified and recodified as RCW 77.12.560 pursuant to 1980 c 78 § 58, effective July 1, 1981.

77.40.070 Public shooting grounds—Skagit and Snohomish counties. [1955 c 36 § 77.40.070. Prior: 1945 c 179 § 1; Rem. Supp. 1945 § 7993-5a.] Decodified by 1980 c 78 § 136, effective July 1, 1981.

77.40.080 Grounds withdrawn from sale or lease. [1955 c 36 § 77.40.080. Prior: 1945 c 179 § 2; Rem. Supp. 1945 § 7993-5b.] Decodified and recodified as RCW 77.12.540 pursuant to 1980 c 78 § 58, effective July 1, 1981.

77.40.090 Certain tidelands in Skagit, Snohomish, and Island counties. [1961 c 190 § 1; 1955 c 36 § 77.40.090. Prior: 1951 c 77 §§ 1, 2.] Decodified by 1980 c 78 § 136, effective July 1, 1981.

Chapter 77.98 CONSTRUCTION

77.98.010 Continuation of existing law. [1955 c 36 § 77.98.010.] Decodified by 1980 c 78 § 136, effective July 1, 1981.

77.98.020 Title, chapter, section headings not part of law. [1955 c 36 § 77.98.020.] Decodified by 1980 c 78 § 136, effective July 1, 1981.

77.98.030 Invalidity of part of title not to affect remainder. [1955 c 36 § 77.98.030.] Decodified by 1980 c 78 § 136, effective July 1, 1981.

77.98.040 Repeals and saving. [1955 c 36 § 77.98.040.] Decodified by 1980 c 78 § 136, effective July 1, 1981.

77.98.050 Emergency—1955 c 36. [1955 c 36 § 77.98.050.] Decodified by 1980 c 78 § 136, effective July 1, 1981.

Title 82
EXCISE TAXES

Chapter 82.04
BUSINESS AND OCCUPATION TAX

82.04.430 Deductions enumerated. [1979 ex.s. c 196 § 5; 1977 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.] Repealed by 1980 c 37 § 81.

Chapter 82.08
RETAIL SALES TAX

82.08.030 Exemptions. [1979 ex.s. c 266 § 6; 1979 c 12 § 1. Prior: 1979 c 2 § 1 (Initiative Measure No. 345, approved November 8, 1977); 1977 ex.s. c 179 § 1; 1977 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.] Repealed by 1980 c 37 § 81.

Chapter 82.12
USE TAX

82.12.030 Exemptions. [1979 ex.s. c 266 § 7; 1979 c 12 § 2. Prior: 1979 c 2 § 2 (Initiative Measure No. 345, approved November 8, 1977); 1977 ex.s. c 179 § 2; 1977 ex.s. c 169 § 111; 1977 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.] Repealed by 1980 c 37 § 81.

Title 84
PROPERTY TAXES

Chapter 84.36
EXEMPTIONS

84.36.410 Solar energy systems installed as improvements to real property—Claims for exemption—Duration—Nonrenewals—Filing period termination—Rules. [1977 ex.s. c 364 § 1.] Repealed by 1980 c 155 § 7.

Title 86
FLOOD CONTROL

Chapter 86.18
FLOOD CONTROL CONTRIBUTIONS
(FORMERLY: FLOOD CONTROL CONTRIBUTION FUND)

86.18.020 Fund created in state treasury. [1967 ex.s. c 136 § 2.] Repealed by 1980 c 32 § 16.

Title 90
WATER RIGHTS—ENVIRONMENT

Chapter 90.50
WATER POLLUTION CONTROL FACILITIES—FINANCING

90.50.070 Appropriation. [1967 c 106 § 7.] Repealed by 1980 c 32 § 16.

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

**Title 1
GENERAL PROVISIONS**

Chapters

1.12 Rules of construction.

**Chapter 1.12
RULES OF CONSTRUCTION**

Sections

1.12.025 Construction of statutes.

1.12.025 Construction of statutes. If at any session of the legislature there are enacted two or more acts amending the same section of the session laws or of the official code, each amendment without reference to the others, each act shall be given effect to the extent that the amendments do not conflict in purpose, otherwise the act last filed in the office of the secretary of state in point of time, shall control: *Provided*, That if one or more special sessions of the same legislature shall follow any regular session, this rule of construction shall apply to the laws enacted at either, both, any, or all of such sessions. [1980 c 87 § 2; 1974 ex.s. c 87 § 1; 1969 ex.s. c 240 § 1; 1955 c 162 § 1.]

**Title 2
COURTS OF RECORD**

Chapters

2.06 Court of appeals.
2.08 Superior courts.
2.10 Judicial retirement system.
2.36 Juries.
2.48 State bar act.

**Chapter 2.06
COURT OF APPEALS**

Sections

2.06.030 General powers and authority—Transfers of cases—Appellate jurisdiction, exceptions—Appeals.

2.06.030 General powers and authority—Transfers of cases—Appellate jurisdiction, exceptions—Appeals. The administration and procedures of the court shall be as provided by rules of the supreme court. The court shall be vested with all power and authority, not inconsistent with said rules, necessary to carry into complete execution all of its judgments, decrees and determinations in all matters within its jurisdiction, according to the rules and principles of the common law and the Constitution and laws of this state.

For the prompt and orderly administration of justice, the supreme court may (1) transfer to the appropriate

division of the court for decision a case or appeal pending before the supreme court; or (2) transfer to the supreme court for decision a case or appeal pending in a division of the court.

Subject to the provisions of this section, the court shall have exclusive appellate jurisdiction in all cases except:

(a) cases of quo warranto, prohibition, injunction or mandamus directed to state officials;

(b) criminal cases where the death penalty has been decreed;

(c) cases where the validity of all or any portion of a statute, ordinance, tax, impost, assessment or toll is drawn into question on the grounds of repugnancy to the Constitution of the United States or of the state of Washington, or to a statute or treaty of the United States, and the superior court has held against its validity;

(d) cases involving fundamental and urgent issues of broad public import requiring prompt and ultimate determination; and

(e) cases involving substantive issues on which there is a direct conflict among prevailing decisions of panels of the court or between decisions of the supreme court; all of which shall be appealed directly to the supreme court: *Provided*, That whenever a majority of the court before which an appeal is pending, but before a hearing thereon, is in doubt as to whether such appeal is within the categories set forth in subsection (d) or (e) of this section, the cause shall be certified to the supreme court for such determination.

The appellate jurisdiction of the court of appeals does not extend to civil actions at law for the recovery of money or personal property when the original amount in controversy, or the value of the property does not exceed the sum of two hundred dollars.

The court shall have appellate jurisdiction over review of final decisions of administrative agencies certified by the superior court pursuant to RCW 34.04.133.

Appeals from the court to the supreme court shall be only at the discretion of the supreme court upon the filing of a petition for review. No case, appeal or petition for a writ filed in the supreme court or the court shall be dismissed for the reason that it was not filed in the proper court, but it shall be transferred to the proper court. [1980 c 76 § 3; 1979 c 102 § 1; 1969 ex.s. c 221 § 3.]

Rules of court: *Cf. Titles 1 and 4 RAP, RAP 18.22.*

Severability—1979 c 102: See note following RCW 3.20.020.

**Chapter 2.08
SUPERIOR COURTS**

Sections

2.08.061 Judges—King, Spokane, and Pierce counties.

2.08.061 Judges—King, Spokane, and Pierce counties. There shall be in the county of King no more than thirty-nine judges of the superior court; in the county of Spokane ten judges of the superior court; in

the county of Pierce thirteen judges of the superior court: *Provided*, That the additional offices herein created for the county of Pierce shall be effective January 1, 1981: *Provided further*, That the additional judicial positions created by the 1980 amendment of this section for the county of King shall become effective only if prior to July 1, 1980, the county through its duly constituted legislative authority has documented its approval thereof and has agreed to pay out of county funds without reimbursement from the state, the same portion of all expenses of such additional positions as it provides for the positions presently existing, in which case such positions shall become effective on January 1, 1981. [1980 c 183 § 1; 1979 ex.s. c 202 § 1; 1977 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 ex.s. c 311: "This 1977 amendatory act shall take effect November 1, 1977." [1977 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 ex.s. c 311.

Chapter 2.10 JUDICIAL RETIREMENT SYSTEM

Sections

2.10.220 Transfers to system—Prior service credit.

2.10.220 Transfers to system—Prior service credit.

(1) Any member of the Washington public employees' retirement system who is eligible to participate in the judicial retirement system may, by written request filed with the retirement boards of the two systems respectively, transfer such membership to the judicial retirement system. Upon the receipt of such request, the board of the Washington public employees' retirement system shall transfer to the board of the Washington judicial retirement system (a) all employee's contributions and interest thereon belonging to such member in the employees' savings fund and all employer's contributions credited or attributed to such member in the benefit account fund and (b) a record of service credited to such member. One-half of such service shall be computed and not more than nine years shall be credited to such member as though such service was performed as a member of the judicial retirement system. Upon such transfer being made the state treasurer shall deposit such moneys in the judicial retirement fund. In the event that any such member should terminate judicial service prior to his entitlement to retirement benefits under any of the provisions of this chapter, he shall upon request therefor be repaid from the judicial retirement fund an amount equal to the amount of his employee's contributions to the Washington public employees' retirement

system and interest plus interest thereon from the date of the transfer of such moneys.

(2) Any member of the judicial retirement system who was formerly a member of the Washington public employees' retirement system with membership service credit of not less than six years but who has terminated his membership therein under the provisions of chapter 41.40 RCW, may reinstate his membership in the Washington public employees' retirement system, for the sole purpose of qualifying for a transfer of membership in the judicial retirement system in accordance with subsection (1) above by making full restoration of all withdrawn funds to the employees' savings fund prior to July 1, 1980. Upon reinstatement in accordance with this subsection, the provisions of subsection (1) and the provisions of RCW 41.40.120(3) shall then be applicable to the reinstated member in the same manner and to the same extent as they are to the present members of the Washington public employees' retirement system who are eligible to participate in the judicial retirement system.

(3) Any member of the judicial retirement system who has served as a judge for one or more years and who has rendered service for the state of Washington, or any political subdivision thereof, prior to October 1, 1947, or the time of the admission of the employer into the Washington public employees' retirement system, may—upon his payment into the judicial retirement fund of a sum equal to five percent of his compensation earned for such prior public service—request and shall be entitled to have one-half of such service computed and not more than six years immediately credited to such member as though such service had been performed as a member of the judicial retirement system, provided that any such prior service so credited shall not be claimed for any pension system other than a judicial retirement system. [1980 c 7 § 1; 1971 ex.s. c 267 § 22.]

Transfers to system by those covered under chapter 2.12 RCW: RCW 2.10.040.

Chapter 2.36 JURIES

Sections

2.36.050 Petit jury defined.

2.36.050 Petit jury defined. A petit jury is a body of persons twelve or less in number in the superior court and six in number in courts of limited jurisdiction; drawn in the superior court and in courts of limited jurisdiction by lot from the jurors in attendance upon the court at a particular session, and sworn to try and determine a question of fact. In courts of limited jurisdiction, juries shall be selected and impaneled in the same manner as in the superior courts, except that a court of limited jurisdiction shall use the jury list developed by the superior court judge or judges to select a jury panel. [1980 c 162 § 6; 1972 ex.s. c 57 § 1; 1891 c 48 § 4; RRS § 92.]

Severability—1980 c 162: See note following RCW 3.02.010.

Courts of limited jurisdiction: Chapter 3.02 RCW.

Chapter 2.48 STATE BAR ACT

Sections
2.48.120 Repealed.

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

Title 3 JUSTICE COURTS—COURTS OF LIMITED JURISDICTION (Formerly: Justices of the Peace and Constables)

Chapters

3.02 Courts of limited jurisdiction.
3.30 Justice courts.
3.42 Justice court commissioners.
3.50 Municipal departments—Alternate provision.
3.58 Salaries and expenses.
3.62 Income of court.
3.66 Jurisdiction and venue.
3.70 Magistrates' association.

Chapter 3.02 COURTS OF LIMITED JURISDICTION (Effective January 1, 1981)

Sections
3.02.010 Court of limited jurisdiction defined.
3.02.020 Review of proceedings.
3.02.030 Record of proceedings.
3.02.040 Electronic recording equipment.

3.02.010 Court of limited jurisdiction defined. For purposes of this chapter, a court of limited jurisdiction is any court organized under Titles 3, 35, or 35A RCW. [1980 c 162 § 1.]

Effective dates, savings—1980 c 162: "Sections 1 through 4 of this 1980 act shall take effect on January 1, 1981, and shall apply to civil or criminal actions commenced on or after January 1, 1981. Sections 8 and 9 of this 1980 act shall take effect on May 1, 1980." [1980 c 162 § 13.] "Sections 1 through 4 of this 1980 act" are codified as chapter 3.02 RCW. "Sections 8 and 9 of this 1980 act" are amendments to RCW 3.58.010 and 3.62.060, respectively.

Severability—1980 c 162: "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." [1980 c 162 § 12.]

3.02.020 Review of proceedings. Review of the proceedings in a court of limited jurisdiction shall be by the superior court, the procedure for which may be established by supreme court rule. [1980 c 162 § 2.]

3.02.030 Record of proceedings. The supreme court may, by court rule, establish a method of making a

record of the proceedings of a court of limited jurisdiction for purposes of review. [1980 c 162 § 3.]

3.02.040 Electronic recording equipment. The administrator for the courts shall supervise the selection, installation, and operation of any electronic recording equipment in courts of limited jurisdiction. [1980 c 162 § 4.]

Chapter 3.30 JUSTICE COURTS

Sections
3.30.090 Violations bureau. (Effective until January 1, 1981.)
3.30.090 Violations bureau. (Effective January 1, 1981.)

3.30.090 Violations bureau. (Effective until January 1, 1981.) A violations bureau may be established by any city or district court having jurisdiction of traffic cases to assist in processing traffic cases. As designated by written order of the court having jurisdiction of traffic cases, specific offenses under city ordinance, county resolution, or state law may be processed by such bureau. Such bureau may be authorized to receive the posting of bail for such specified offenses, and, as authorized by the court order, to accept forfeiture of bail. The court order shall specify the amount of bail to be posted and shall also specify the circumstances or conditions which will require an appearance before the court. Such bureau, upon accepting the prescribed bail, shall issue a receipt to the alleged violator, which receipt shall bear a legend informing him of the legal consequences of bail forfeiture. The bureau shall transfer daily to the clerk of the proper department of the court all bail posted for offenses where forfeiture is not authorized by the court order, as well as copies of all receipts. All forfeitures paid to a violations bureau for violations of municipal ordinances shall be placed in the city general fund or such other fund as may be prescribed by ordinance. All forfeitures paid to a violations bureau for violations of state laws or county resolutions shall be remitted at least monthly to the county treasurer for deposit in the current expense fund. Employees of violations bureaus of a city shall be city employees under any applicable municipal civil service system. [1971 c 73 § 4; 1961 c 299 § 9.]

3.30.090 Violations bureau. (Effective January 1, 1981.) A violations bureau may be established by any city or district court having jurisdiction of traffic cases to assist in processing traffic cases. As designated by written order of the court having jurisdiction of traffic cases, specific offenses under city ordinance, county resolution, or state law may be processed by such bureau. Such bureau may be authorized to receive the posting of bail for such specified offenses, and, as authorized by the court order, to accept forfeiture of bail and payment of monetary penalties. The court order shall specify the amount of bail to be posted and shall also specify the circumstances or conditions which will require an appearance before the court. Such bureau, upon accepting the prescribed bail, shall issue a receipt to the alleged

violator, which receipt shall bear a legend informing him of the legal consequences of bail forfeiture. The bureau shall transfer daily to the clerk of the proper department of the court all bail posted for offenses where forfeiture is not authorized by the court order, as well as copies of all receipts. All forfeitures or penalties paid to a violations bureau for violations of municipal ordinances shall be placed in the city general fund or such other fund as may be prescribed by ordinance. All forfeitures or penalties paid to a violations bureau for violations of state laws or county resolutions shall be remitted at least monthly to the county treasurer for deposit in the current expense fund. Employees of violations bureaus of a city shall be city employees under any applicable municipal civil service system. [1979 ex.s. c 136 § 15; 1971 c 73 § 4; 1961 c 299 § 9.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Chapter 3.42

JUSTICE COURT COMMISSIONERS

Sections

- 3.42.010 Justice court commissioners—Appointment—Qualifications—Term of office.
 3.42.020 Powers of commissioners. (Effective until January 1, 1981.)
 3.42.020 Powers of commissioners. (Effective January 1, 1981.)

3.42.010 Justice court commissioners—Appointment—Qualifications—Term of office. When so authorized by the justice court districting plan, one or more justice court commissioners may be appointed in any justice court district by the justices of the peace of such district. Each commissioner shall be a registered voter of the county in which the justice court district or a portion thereof is located, and shall hold office during the pleasure of the justices of the peace appointing him: *Provided*, That any commissioner authorized to hear or dispose of cases shall be a lawyer who is admitted to the practice of law in the state of Washington or who has passed the qualifying examination for lay justices of the peace as provided under RCW 3.34.060. [1980 c 162 § 7; 1961 c 299 § 31.]

Severability—1980 c 162: See note following RCW 3.02.010.

3.42.020 Powers of commissioners. (Effective until January 1, 1981.) Each justice court commissioner shall have such power, authority and jurisdiction in criminal matters as the justices of the peace who appointed him possess and shall prescribe. Justice court commissioners shall not have power to hear and determine civil matters. [1961 c 299 § 32.]

3.42.020 Powers of commissioners. (Effective January 1, 1981.) Each justice court commissioner shall have such power, authority, and jurisdiction in criminal matters as the justices of the peace who appointed him possess and shall prescribe. Justice court commissioners shall not have power to hear and determine civil matters

other than traffic infractions. [1979 ex.s. c 136 § 16; 1961 c 299 § 32.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Chapter 3.50

MUNICIPAL DEPARTMENTS—ALTERNATE PROVISION

Sections

- 3.50.020 Jurisdiction. (Effective until January 1, 1981.)
 3.50.020 Jurisdiction. (Effective January 1, 1981.)
 3.50.030 Violations bureau for traffic cases—Disposition of moneys collected. (Effective until January 1, 1981.)
 3.50.030 Violations bureau for traffic cases—Disposition of moneys collected. (Effective January 1, 1981.)
 3.50.280 Jury trials, when allowed—No change of venue or affidavit of prejudice. (Effective until January 1, 1981.)
 3.50.280 Jury trials, when allowed—No change of venue or affidavit of prejudice. (Effective January 1, 1981.)

3.50.020 Jurisdiction. (Effective until January 1, 1981.) The municipal court shall have exclusive original criminal jurisdiction of all violations of city ordinances duly adopted by the city in which the municipal court is located and shall have original jurisdiction of all other actions brought to enforce or recover license penalties or forfeitures declared or given by such ordinances or by state statutes. The municipal court is empowered to forfeit cash bail or bail bonds and issue execution thereon; to hear and determine all causes, civil or criminal, arising under such ordinances and to pronounce judgment in accordance therewith. [1961 c 299 § 51.]

3.50.020 Jurisdiction. (Effective January 1, 1981.) The municipal court shall have exclusive original criminal jurisdiction of all violations of city ordinances duly adopted by the city in which the municipal court is located and shall have original jurisdiction of all other actions brought to enforce or recover license penalties or forfeitures declared or given by such ordinances or by state statutes. The municipal court is empowered to forfeit cash bail or bail bonds and issue execution thereon; to hear and determine all causes, civil or criminal, including traffic infractions, arising under such ordinances and to pronounce judgment in accordance therewith. [1979 ex.s. c 136 § 17; 1961 c 299 § 51.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

3.50.030 Violations bureau for traffic cases—Disposition of moneys collected. (Effective until January 1, 1981.) Every city or town may establish and operate under the supervision of the municipal court a violations bureau to assist the court in processing traffic cases. Each municipal court shall designate the specific traffic offenses under the city or town ordinance which may be processed by the violations bureau. A violations bureau may be authorized to receive the posting of bail for specified offenses and, to the extent authorized by court order, permitted to accept forfeiture of bail. Any

violations bureau, upon accepting the prescribed bail, shall issue a receipt therefor to the alleged violator, acknowledging the posting thereof and informing the accused of the legal consequences of bail forfeiture. Any person charged with any traffic offense within the authority of the violations bureau may, upon signing a written appearance, a written plea of guilty and a written waiver of trial, pay to the violations bureau the fine established for the offense charged and costs and this shall have the same effect as a court conviction. All penalties and forfeitures paid to a violations bureau for the violation of municipal ordinance shall be placed in the city or town general fund or such other fund as may be prescribed by ordinance of the city or town or laws of the state of Washington. Any employees of an existing violations bureau of any city shall continue as a city employee. [1961 c 299 § 52.]

3.50.030 Violations bureau for traffic cases—Disposition of moneys collected. (Effective January 1, 1981.) Every city or town may establish and operate under the supervision of the municipal court a violations bureau to assist the court in processing traffic cases. Each municipal court shall designate the specific traffic offenses under the city or town ordinance which may be processed by the violations bureau. A violations bureau may be authorized to receive the posting of bail for specified offenses and, to the extent authorized by court order, permitted to accept forfeiture of bail and payment of penalties. Any violations bureau, upon accepting the prescribed bail, shall issue a receipt therefor to the alleged violator, acknowledging the posting thereof and informing the accused of the legal consequences of bail forfeiture. Any person charged with any criminal traffic offense within the authority of the violations bureau may, upon signing a written appearance, a written plea of guilty and a written waiver of trial, pay to the violations bureau the fine established for the offense charged and costs and this shall have the same effect as a court conviction. All penalties and forfeitures paid to a violations bureau for the violation of municipal ordinance shall be placed in the city or town general fund or such other fund as may be prescribed by ordinance of the city or town or laws of the state of Washington. Any employees of an existing violations bureau of any city shall continue as a city employee. [1979 ex.s. c 136 § 18; 1961 c 299 § 52.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

3.50.280 Jury trials, when allowed—No change of venue or affidavit of prejudice. (Effective until January 1, 1981.) In all trials for offenses in municipal court, a jury trial shall be allowed only in offenses involving the revocation or suspension of a driver's license or other gross misdemeanor. No change of venue shall be taken from the municipal court, and the defendant shall not be entitled to file an affidavit of prejudice against any judge of the municipal court. [1961 c 299 § 77.]

3.50.280 Jury trials, when allowed—No change of venue or affidavit of prejudice. (Effective January 1, 1981.) In all trials for offenses in municipal court, a jury trial shall be allowed only in criminal offenses involving the revocation or suspension of a driver's license or other gross misdemeanor. No change of venue shall be taken from the municipal court, and the defendant shall not be entitled to file an affidavit of prejudice against any judge of the municipal court. [1979 ex.s. c 136 § 19; 1961 c 299 § 77.]

Rules for Courts of Limited Jurisdiction: JCrR 4.07.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Chapter 3.58 SALARIES AND EXPENSES

Sections

3.58.010 Salaries of full time district court judges, municipal judges.

3.58.010 Salaries of full time district court judges, municipal judges. The annual salary of each full time district court judge shall be ninety percent of the salary of a judge of a superior court: *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 district court judge 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, as now or hereafter amended, 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. [1980 c 162 § 8; 1979 ex.s. c 255 § 8; 1977 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 dates, savings—Severability—1980 c 162: See notes following RCW 3.02.010.

Effective date—1979 ex.s. c 255: See note following RCW 43.03.010.

Effective date—1977 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—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.

Chapter 3.62
INCOME OF COURT

Sections

- 3.62.015 Distribution of income percentages—Establishment—Use—Annual review. (Effective July 1, 1981.)
- 3.62.060 Filing fees in civil cases.
- 3.62.070 Filing fees in criminal cases and traffic infractions. (Effective January 1, 1981.)

3.62.015 Distribution of income percentages—Establishment—Use—Annual review. (Effective July 1, 1981.) The state auditor shall establish distribution percentages for use by the county treasurer and state treasurer in remitting justice court income, except for (1) fines, forfeitures, and penalties assessed and collected because of the violation of city and/or county ordinances, (2) fees and costs assessed and collected because of a civil action, (3) penalty assessments assessed and collected pursuant to *RCW 46.61.515(2), and (4) fines, forfeitures, and costs, by whatever name known, collected pursuant to RCW 77.12.170. A separate percentage shall be established for each city within the county, and for each county, and for the amount that each county shall remit to the state treasurer. These percentages shall be established by reviewing the financial records of each county for the six years prior to January 1, 1969, and determining the average percentage of the net income, from that county's justice courts, that each city, and the county, and the state has received for that period of time. The percentages determined by this procedure shall then be provided to each county treasurer for his use in distributing justice court income. Percentages shall be established for each state fund, now receiving justice court income, by determining the average percentage of justice court income that each fund has received from the total income remitted to the state by the counties for this period of time, except that any state fund receiving less than five hundred dollars each year for the two years 1967 and 1968 shall not have a percentage established for it and the amounts of income in such situation shall be added to the amounts remitted to the state general fund for the purpose of calculating average distribution percentages.

The state auditor, with the assistance of the administrator for the courts, shall review the distribution percentages annually. This review shall be based upon the annual percentages of types of violations, in relationship to the total cases processed, to determine if the original percentages established by this section are still proportionately accurate within a margin of plus or minus five percent. In the event the annual review indicates that the existing percentages are not proportionately accurate, the state auditor shall revise the distribution percentages to the percentages indicated in the annual review and notify the county and state treasurer within fifteen days in advance of any quarterly distribution of the revised percentages and the statistics supporting the revision. [1980 c 78 § 129; 1974 ex.s. c 130 § 2; 1969 ex.s. c 199 § 1.]

*Reviser's note: This reference should probably read "RCW 46.61.515(3)" to reflect amendments to that section.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

3.62.060 Filing fees in civil cases. In any civil action commenced before or transferred to a justice court, the plaintiff shall, at the time of such commencement or transfer, pay to such court a filing fee of twelve dollars. Fees for the support of county law libraries provided for in RCW 27.24.070 shall be paid by the clerk out of the filing fee provided for in this section. No party shall be compelled to pay to the court any other fees or charges up to and including the rendition of judgment in the action. [1980 c 162 § 9; 1969 c 25 § 1; 1965 c 55 § 1; 1961 c 299 § 110.]

Effective dates, savings—Severability—1980 c 162: See notes following RCW 3.02.010.

3.62.070 Filing fees in criminal cases and traffic infractions. (Effective January 1, 1981.) Except in traffic cases wherein bail is forfeited or a monetary penalty paid to a violations bureau, and except in cases filed in municipal departments established pursuant to chapter 3.46 RCW and except in cases where a city has contracted with another city for such services pursuant to chapter 39.34 RCW, in every criminal or traffic infraction action filed by a city for an ordinance violation, the city shall be charged a filing fee determined pursuant to an agreement as provided for in chapter 39.34 RCW, the interlocal cooperation act, between the city and the county providing the court service. In such criminal or traffic infraction actions the cost of providing services necessary for the preparation and presentation of a defense at public expense are not within the filing fee and shall be paid by the city. In all other criminal or traffic infraction actions, no filing fee shall be assessed or collected: *Provided*, That in such cases, for the purposes of RCW 3.62.010, four dollars or the agreed filing fee of each fine or penalty, whichever is greater, shall be deemed filing costs. In the event no agreement is reached between a municipal corporation and the county providing the court service within ninety days of September 1, 1979, the municipal corporation and the county shall be deemed to have entered into an agreement to submit the issue to arbitration pursuant to chapter 7.04 RCW, and the municipal corporation and the county shall be entitled to the same rights and subject to the same duties as other parties who have agreed to submit to arbitration pursuant to chapter 7.04 RCW. In the event that such issue is submitted to arbitration, the arbitrator or arbitrators shall only consider those additional costs borne by the county in providing justice court services for such city. [1980 c 128 § 14; 1979 ex.s. c 129 § 1; 1973 1st ex.s. c 10 § 2; 1961 c 299 § 111.]

Effective date—Severability—1980 c 128: See notes following RCW 46.63.060.

Chapter 3.66
JURISDICTION AND VENUE

| | |
|----------|---|
| Sections | |
| 3.66.010 | General powers of justice court. (Effective until January 1, 1981.) |
| 3.66.010 | General powers of justice court. (Effective January 1, 1981.) |
| 3.66.100 | Territorial jurisdiction—Process. |

3.66.010 General powers of justice court. (Effective until January 1, 1981.) The justices of the peace elected in accordance with chapters 3.30 through 3.74 RCW are authorized to hold court as judges of the justice court for the trial of all actions enumerated in chapters 3.30 through 3.74 RCW or assigned to the justice court by law; to hear, try and determine the same according to the law, and for that purpose where no special provision is otherwise made by law, such court shall be vested with all the necessary powers which are possessed by courts of record in this state; and all laws of a general nature shall apply to such justice court as far as the same may be applicable and not inconsistent with the provisions of chapters 3.30 through 3.74 RCW. The justice court shall, upon the demand of either party, impanel a jury to try any civil or criminal case in accordance with the provisions of chapter 12.12 RCW: *Provided*, That in the trial of actions brought for violating any city ordinance, a jury trial shall be allowed only for offenses involving the revocation or suspension of a driver's license or other gross misdemeanor. [1961 c 299 § 112.]

3.66.010 General powers of justice court. (Effective January 1, 1981.) The justices of the peace elected in accordance with chapters 3.30 through 3.74 RCW are authorized to hold court as judges of the justice court for the trial of all actions enumerated in chapters 3.30 through 3.74 RCW or assigned to the justice court by law; to hear, try, and determine the same according to the law, and for that purpose where no special provision is otherwise made by law, such court shall be vested with all the necessary powers which are possessed by courts of record in this state; and all laws of a general nature shall apply to such justice court as far as the same may be applicable and not inconsistent with the provisions of chapters 3.30 through 3.74 RCW. The justice court shall, upon the demand of either party, impanel a jury to try any civil or criminal case in accordance with the provisions of chapter 12.12 RCW: *Provided*, That in the trial of actions brought for violating any city ordinance, a jury trial shall be allowed only for criminal offenses involving the revocation or suspension of a driver's license or other gross misdemeanor: *Provided further*, That no jury trial may be held in a proceeding involving a traffic infraction. [1979 ex.s. c 136 § 20; 1961 c 299 § 112.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

3.66.100 Territorial jurisdiction—Process.

Issue of process in traffic infraction cases: RCW 46.63.130.

Chapter 3.70
MAGISTRATES' ASSOCIATION

| | |
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| Sections | |
| 3.70.040 | Powers and duties. |

3.70.040 Powers and duties. The Washington state magistrates' association shall:

(1) Continuously survey and study the operation of the courts served by its membership, the volume and condition of business of such courts, the methods of procedure therein, the work accomplished, and the character of the results;

(2) Promulgate suggested rules for the administration of the justice courts not inconsistent with the law or rules of the supreme court relating to such courts;

(3) Report annually to the supreme court as well as the governor and the legislature on the condition of business in the courts of limited jurisdiction, including the association's recommendations as to needed changes in the organization, operation, judicial procedure, and laws or statutes implemented or enforced in these courts. [1980 c 162 § 10; 1961 c 299 § 126.]

Severability—1980 c 162: See note following RCW 3.02.010.

Title 4
CIVIL PROCEDURE

Chapters

| | |
|-------------|---|
| 4.16 | Limitation of actions. |
| 4.24 | Special rights of action and special immunities. |
| 4.56 | Judgments—Generally. |
| 4.84 | Costs. |

Chapter 4.16
LIMITATION OF ACTIONS

| | |
|----------|---|
| Sections | |
| 4.16.020 | Actions to be commenced within ten years. |
| 4.16.040 | Actions limited to six years. |

4.16.020 Actions to be commenced within ten years. The period prescribed in RCW 4.16.010 for the commencement of actions shall be as follows:

Within ten years:

(1) Actions for the recovery of real property, or for the recovery of the possession thereof; and no action shall be maintained for such recovery unless it appears that the plaintiff, his ancestor, predecessor or grantor was seized or possessed of the premises in question within ten years before the commencement of the action.

(2) An action upon a judgment or decree of any court of the United States, or of any state or territory within the United States, or of any territory or possession of the United States outside the boundaries thereof, or of any extraterritorial court of the United States. [1980 c 105 § 1; Code 1881 § 26; 1877 p 7 § 26; 1854 p 363 § 2; RRS § 156.]

Application—1980 c 105: "This act shall apply to all judgments which have not expired before June 12, 1980." [1980 c 105 § 7.] This applies to the amendments to RCW 4.16.020, 4.16.040, 4.56.190, 6.04.010, 6.32.010 and 6.32.015.

Adverse possession, limitation tolled when personal disability: RCW 7.28.090.

Adverse possession, recovery of realty, limitation: RCW 7.28.050.

4.16.040 Actions limited to six years. Within six years:

(1) An action upon a contract in writing, or liability express or implied arising out of a written agreement.

(2) An action for the rents and profits or for the use and occupation of real estate. [1980 c 105 § 2; 1927 c 137 § 1; Code 1881 § 27; 1854 p 363 § 3; RRS § 157.]

Application—1980 c 105: See note following RCW 4.16.020.

Chapter 4.24

SPECIAL RIGHTS OF ACTION AND SPECIAL IMMUNITIES

Sections

4.24.210 Liability of owners or others in possession of land and water areas for injuries to recreation users—Limitation.

4.24.210 Liability of owners or others in possession of land and water areas for injuries to recreation users—Limitation. Any public or private landowners or others in lawful possession and control of any lands whether rural or urban, or water areas or channels and lands adjacent to such areas or channels, who allow members of the public to use them for the purposes of outdoor recreation, which term includes, but is not limited to, the cutting, gathering, and removing of firewood by private persons for their personal use without purchasing the firewood from the landowner, hunting, fishing, camping, picnicking, swimming, hiking, bicycling, the riding of horses or other animals, clam digging, pleasure driving of off-road vehicles, snowmobiles, and other vehicles, boating, nature study, winter or water sports, viewing or enjoying historical, archaeological, scenic, or scientific sites, without charging a fee of any kind therefor, shall not be liable for unintentional injuries to such users: *Provided*, That any public or private landowner, or others in lawful possession and control of the land, may charge an administrative fee of up to ten dollars for the cutting, gathering, and removing of firewood from the land: *Provided further*, That nothing in this section shall prevent the liability of such a landowner or others in lawful possession and control for injuries sustained to users by reason of a known dangerous artificial latent condition for which warning signs have not been conspicuously posted: *Provided further*, That nothing in RCW 4.24.200 and 4.24.210 limits or expands in any way the doctrine of attractive nuisance: *And provided further*, That the usage by members of the public is permissive and does not support any claim of adverse possession. [1980 c 111 § 1; 1979 c 53 § 1; 1972 ex.s. c 153 § 17; 1969 ex.s. c 24 § 2; 1967 c 216 § 2.]

Purpose—1972 ex.s. c 153: See RCW 67.32.080.

Off-road and nonhighway vehicles: Chapter 46.09 RCW.

Snowmobiles: Chapter 46.10 RCW.

Chapter 4.56

JUDGMENTS—GENERALLY

Sections

4.56.110 Interest on judgments.
4.56.190 Lien of judgment.

4.56.110 Interest on judgments. Interest on judgments shall accrue as follows:

(1) Judgments founded on written contracts, providing for the payment of interest until paid at a specified rate, shall bear interest at the rate specified in such contracts, not in any case, however, to exceed twelve percent per annum: *Provided*, That said interest rate is set forth in the judgment.

(2) Except as provided under subsection (1) of this section, judgments shall bear interest at the rate of ten percent per annum from the date of entry thereof: *Provided*, That in any case where a court is directed on review to enter judgment on a verdict or in any case where a judgment entered on a verdict is wholly or partly affirmed on review, interest on the judgment or on that portion of the judgment affirmed shall date back to and shall accrue from the date the verdict was rendered. [1980 c 94 § 5; 1969 c 46 § 1; 1899 c 80 § 6; 1895 c 136 § 4; RRS § 457.]

Effective date—1980 c 94: See note following RCW 4.84.250.

4.56.190 Lien of judgment. The real estate of any judgment debtor, and such as he may acquire, not exempt by law, shall be held and bound to satisfy any judgment of the district court of the United States rendered in this state, any judgment of the supreme court, court of appeals, or superior court of this state, and any judgment of any justice of the peace rendered in this state, and every such judgment shall be a lien thereupon to commence as hereinafter provided and to run for a period of not to exceed ten years from the day on which such judgment was rendered. Personal property of the judgment debtor shall be held only from the time it is actually levied upon. [1980 c 105 § 3; 1971 c 81 § 16; 1929 c 60 § 1; RRS § 445. Prior: 1893 c 42 § 9; Code 1881 § 321; 1869 p 78 § 317; 1860 p 51 § 234; 1857 p 11 § 15; 1854 p 175 § 240.]

Application—1980 c 105: See note following RCW 4.16.020.

Repeal and saving—1929 c 60: "That chapter XXVIII (28), sections 320, 321, 322, and chapter XXIX (29), sections 323 and 324, and section 753 of the Code of Washington Territory of 1881; an act entitled 'An Act relating to the filing and recording of transcripts of judgments rendered in this state by the district or circuit courts of the United States', approved February 19, 1890, Laws of 1889/90, pages 97 to 98; section 5 of chapter XXXVIII (38) of the Laws of 1891, pages 77 to 78; chapter LXXXIV (84) of the Laws of 1891, pages 165 to 166; chapter XLII (42) of the Laws of 1893 pages 65 to 67, and chapter XXXIX (39) of the Laws of 1897, pages 52 to 53, chapter XI of the Laws of 1897, page 10, (sections 445, 446, 447, 450, 451, 452, 453, 454, 455, 456, 458, 459, 460, 461, 462 and 463 of Remington's Compiled Statutes; sections 8111, 8112, 8113, 8114, 8115, 8116, 8117, 8118, 8119, 8120, 8121, 8125, 8126, 8163, 8164 and 8165 of Pierce's

Code) are hereby repealed: *Provided*, That such repeal shall not be construed as affecting any rights acquired or the validity of any act done or proceeding had or pending under the provisions of any of said acts repealed." [1929 c 60 § 9.]

Execution of judgments: RCW 6.04.010.

**Chapter 4.84
COSTS**

Sections

- 4.84.250 Attorneys' fees as costs in damage actions of three thousand dollars or less (five thousand dollars after July 1, 1981)—Allowed to prevailing party—Amount.
- 4.84.260 Attorneys' fees as costs in damage actions of three thousand dollars or less (five thousand dollars after July 1, 1981)—When plaintiff deemed prevailing party.
- 4.84.270 Attorneys' fees as costs in damage actions of three thousand dollars or less (five thousand dollars after July 1, 1981)—When defendant deemed prevailing party.
- 4.84.280 Attorneys' fees as costs in damage actions of three thousand dollars or less (five thousand dollars after July 1, 1981)—Offers of settlement in determining.
- 4.84.290 Attorneys' fees as costs in damage actions of three thousand dollars or less (five thousand dollars after July 1, 1981)—Prevailing party on appeal.
- 4.84.300 Attorneys' fees as costs in damage actions of three thousand dollars or less (five thousand dollars after July 1, 1981)—Application.
- 4.84.310 Attorneys' fees as costs in damage actions of three thousand dollars or less (five thousand dollars after July 1, 1981)—Assigned claims.

Reviser's note: The section captions for RCW 4.84.250–4.84.310 have been changed to reflect amendments made to RCW 4.84.250, 4.84.270, 4.84.280 and 4.84.300 during the 1980 session. RCW 4.84.260, 4.84.290 and 4.84.310 were not expressly amended during said session.

4.84.250 Attorneys' fees as costs in damage actions of three thousand dollars or less (five thousand dollars after July 1, 1981)—Allowed to prevailing party—Amount. Notwithstanding any other provisions of chapter 4.84 RCW and RCW 12.20.060, in any action for damages where the amount pleaded by the prevailing party as hereinafter defined, exclusive of costs, is three thousand dollars or less, there shall be taxed and allowed to the prevailing party as a part of the costs of the action a reasonable amount to be fixed by the court as attorneys' fees. After July 1, 1981, the maximum amount of the pleading under this section shall be five thousand dollars. [1980 c 94 § 1; 1973 c 84 § 1.]

Effective date—1980 c 94: "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 May 1, 1980." [1980 c 94 § 6.] This applies to the amendments to RCW 4.84.250, 4.84.270, 4.84.280, 4.84.300 and 4.56.110.

4.84.260 Attorneys' fees as costs in damage actions of three thousand dollars or less (five thousand dollars after July 1, 1981)—When plaintiff deemed prevailing party.

4.84.270 Attorneys' fees as costs in damage actions of three thousand dollars or less (five thousand dollars after July 1, 1981)—When defendant deemed prevailing party. The defendant, or party resisting relief, shall

be deemed the prevailing party within the meaning of RCW 4.84.250, if the plaintiff, or party seeking relief in an action for damages where the amount pleaded, exclusive of costs, is equal to or less than the maximum allowed under RCW 4.84.250, recovers nothing, or if the recovery, exclusive of costs, is the same or less than the amount offered in settlement by the defendant, or the party resisting relief, as set forth in RCW 4.84.280. [1980 c 94 § 2; 1973 c 84 § 3.]

Effective date—1980 c 94: See note following RCW 4.84.250.

4.84.280 Attorneys' fees as costs in damage actions of three thousand dollars or less (five thousand dollars after July 1, 1981)—Offers of settlement in determining. Offers of settlement shall be served on the adverse party in the manner prescribed by applicable court rules. Offers of settlement shall not be served until thirty days after the completion of the service and filing of the summons and complaint in an action filed in superior court. Offers of settlement shall not be filed or communicated to the trier of the fact until after judgment, at which time a copy of said offer of settlement shall be filed for the purposes of determining attorneys' fees as set forth in RCW 4.84.250. [1980 c 94 § 3; 1973 c 84 § 4.]

Effective date—1980 c 94: See note following RCW 4.84.250.

4.84.290 Attorneys' fees as costs in damage actions of three thousand dollars or less (five thousand dollars after July 1, 1981)—Prevailing party on appeal.

4.84.300 Attorneys' fees as costs in damage actions of three thousand dollars or less (five thousand dollars after July 1, 1981)—Application. The provisions of RCW 4.84.250 through 4.84.290 shall apply regardless of whether the action is commenced in justice court or superior court except as provided in RCW 4.84.280. This section shall not be construed as conferring jurisdiction on either court. [1980 c 94 § 4; 1973 c 84 § 6.]

Effective date—1980 c 94: See note following RCW 4.84.250.

4.84.310 Attorneys' fees as costs in damage actions of three thousand dollars or less (five thousand dollars after July 1, 1981)—Assigned claims.

Title 6

ENFORCEMENT OF JUDGMENTS

Chapters

- 6.04 Executions.
- 6.32 Proceedings supplemental to execution.

**Chapter 6.04
EXECUTIONS**

- Sections
- 6.04.010

Execution authorized within ten years.

6.04.010 Execution authorized within ten years. The party in whose favor a judgment of a court of record of this state has been, or may hereafter be, rendered, or his assignee, may have an execution issued for the collection or enforcement of the same, at any time within ten years from the rendition thereof. [1980 c 105 § 4; 1971 c 81 § 26; 1929 c 25 § 2; RRS § 510. Prior: 1888 p 94 § 1; Code 1881 § 325; 1877 p 67 § 328; 1869 p 79 § 320; 1854 p 175 § 242.]

Application—1980 c 105: See note following RCW 4.16.020. Execution on part of claim in receiver's action: RCW 7.60.050.

Chapter 6.32

PROCEEDINGS SUPPLEMENTAL TO EXECUTION

Sections

- 6.32.010 Order for examination of judgment debtor.
6.32.015 Order to require judgment debtor to answer interrogatories.

6.32.010 Order for examination of judgment debtor.

At any time within ten years after entry of a judgment for the sum of twenty-five dollars or over upon application by the judgment creditor, such court or judge may, by an order, require the judgment debtor to appear at a specified time and place before the judge granting the order, or a referee appointed by him, to answer concerning the same; and the judge to whom application is made under this chapter may, if it is made to appear to him by the affidavit of the judgment creditor, his agent or attorney that there is danger of the debtor absconding, order the sheriff to arrest the debtor and bring him before the judge granting the order. Upon being brought before the judge he may be ordered to enter into a bond, with sufficient sureties, that he will attend from time to time before the judge or referee, as shall be directed, during the pendency of the proceedings and until the final termination thereof. [1980 c 105 § 5; 1971 ex.s. c 211 § 1; 1957 c 8 § 7; 1899 c 93 § 1; 1893 c 133 § 1; RRS § 613.]

Application—1980 c 105: See note following RCW 4.16.020.

6.32.015 Order to require judgment debtor to answer interrogatories. At any time within ten years, after entry of a judgment for a sum of twenty-five dollars or over, upon application by the judgment creditor, such court or judge may by order served on the judgment debtor require such debtor to answer written interrogatories, under oath, in such form as may be approved by the court. No such creditor shall be required to proceed under this section nor shall he waive his rights to proceed under RCW 6.32.010 by proceeding under this section. [1980 c 105 § 6; 1971 ex.s. c 211 § 2.]

Application—1980 c 105: See note following RCW 4.16.020.

Title 7

SPECIAL PROCEEDINGS AND ACTIONS

Chapters

7.68 Victims of crimes—Compensation, assistance.

Chapter 7.68

VICTIMS OF CRIMES—COMPENSATION, ASSISTANCE

Sections

- 7.68.020 Definitions.
7.68.050 Right of action for damages—Election—Effect of election or recovery—Lien of state.
7.68.130 Public or private insurance.

7.68.020 Definitions. The following words and phrases as used in this chapter have the meanings set forth in this section 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 is 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 is 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 are 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" is 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" have the meanings assigned to them in chapter 51.08 RCW as now or hereafter amended.

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

(6) "Private insurance" means any source of recompense provided by contract available as a result of the claimed injury or death at the time of such injury or death, or which becomes available any time thereafter.

(7) "Public insurance" means any source of recompense provided by statute, state or federal, available as a result of the claimed injury or death at the time of such injury or death, or which becomes available any time thereafter. [1980 c 156 § 2; 1977 ex.s. c 302 § 2; 1975 1st ex.s. c 176 § 1; 1973 1st ex.s. c 122 § 2.]

Legislative intent—"Public or private insurance"—1980 c 156: Sections 2 through 4 of this 1980 act are required to clarify the legislative intent concerning the phrase "public or private insurance" as used in section 13, chapter 122, Laws of 1973 1st ex. sess. and RCW 7.68.130 which was the subject of *Wagner v. Labor & Indus.*, 92 Wn.2d 463 (1979). It has continuously been the legislative intent to include as "public insurance" both state and federal statutory social welfare and insurance schemes which make available to victims or their beneficiaries recompense as a result of the claimed injury or death, such as but not limited to old age and survivors insurance, medicare, medicaid, benefits under the veterans' benefits act, longshore and harbor workers act, industrial insurance act, law enforcement officers' and fire fighters' retirement system act, Washington public employees' retirement system act, teachers' retirement system act, and firemen's relief and pension act. "Private insurance" continuously has been intended to include sources of recompense available by contract, such as but not limited to policies insuring a victim's life or disability." [1980 c 156 § 1.] Sections 2 through 4 of this 1980 act consist of amendments to RCW 7.68.020, 7.68.050 and 7.68.130 by 1980 c 156.

7.68.050 Right of action for damages—Election—Effect of election or recovery—Lien of state.

(1) 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. The victim or his beneficiary may elect to seek damages from the person or persons liable for the claimed injury or death, and such victim or beneficiary is entitled to the full compensation and benefits provided by this chapter regardless of any election or recovery made pursuant to this section.

(2) For the purposes of this section, the rights, privileges, responsibilities, duties, limitations, and procedures contained in RCW 51.24.050 through 51.24.100 as now existing or hereafter amended apply.

(3) If the recovery involved is against the state, the lien of the department includes 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.

(4) The 1980 amendments to this section apply only to injuries which occur on or after April 1, 1980. [1980 c 156 § 3; 1977 ex.s. c 302 § 3; 1973 1st ex.s. c 122 § 5.]

Legislative intent—"Public or private insurance"—1980 c 156: See note following RCW 7.68.020.

7.68.130 Public or private insurance. Benefits payable pursuant to this chapter shall be reduced by the amount of any other public or private insurance available. Payment by the department under this chapter

shall be secondary to such other insurance benefits, notwithstanding the provision of any contract or coverage to the contrary: *Provided*, That in the case of private life insurance proceeds, the first forty thousand dollars of such proceeds shall not be considered for purposes of any such reduction in benefits. [1980 c 156 § 4; 1977 ex.s. c 302 § 8; 1973 1st ex.s. c 122 § 13.]

Legislative intent—"Public or private insurance"—1980 c 156: See note following RCW 7.68.020.

Title 9

CRIMES AND PUNISHMENTS

[See also Washington Criminal Code, Title 9A RCW]

Chapters

- 9.68A Child pornography.
- 9.95 Prison terms, paroles and probation.
- 9.96 Restoration of civil rights.

Chapter 9.68A

CHILD PORNOGRAPHY

Sections

- 9.68A.010 Definitions.
- 9.68A.020 Employing, using, etc., or permitting minor to engage in sexually explicit conduct for commercial use—Class B felony—Defense.
- 9.68A.030 Sending, bringing into state, possessing, publishing, printing, etc., obscene matter involving minor engaged in sexually explicit conduct—Class C felony.
- 9.68A.900 Severability—1980 c 53.

Communication with minor for immoral purposes: RCW 9A.44.110.

9.68A.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Commercial use" means to sell, barter, trade, or otherwise exchange for consideration.

(2) "Minor" means a person under the age of eighteen years.

(3) "Photograph" means to make a print, negative, slide, motion picture, videotape, or other mechanically reproduced visual material.

(4) "Erotic fondling" means the touching of a person's clothed or unclothed genitals, pubic area, buttocks, or a female breast area for the purpose of sexual stimulation or gratification of the audience.

(5) "Sexually explicit conduct" means actual or simulated:

(a) Sexual intercourse, including genital–genital, oral–genital, anal–genital, or oral–anal, whether between persons of the same or opposite sex;

(b) Bestiality;

(c) Masturbation;

(d) Sado–masochistic abuse for the purpose of sexual stimulation;

(e) Erotic fondling; and

(f) Lewd exhibition of the male or female genitals or buttocks, or female breasts.

(6) Visual or printed matter means any film, photograph, negative, slide, motion picture, video tape, book, magazine, or other mechanically reproduced visual or printed material. [1980 c 53 § 1.]

9.68A.020 Employing, using, etc., or permitting minor to engage in sexually explicit conduct for commercial use—Class B felony—Defense. A person who:

(1) Knowing that such conduct will be photographed or displayed for commercial use, employs, uses, persuades, induces, entices, or coerces a minor to engage in sexually explicit conduct; or

(2) Being a parent, legal guardian, or person having custody or control of a minor, knowingly permits the minor to engage in sexually explicit conduct, knowing that the conduct will be photographed or displayed for commercial use;

is guilty of a Class B felony.

In a prosecution under this chapter, it is not a defense that the defendant did not know the victim's age: *Provided*, That it is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense the defendant reasonably believed the alleged victim to be at least eighteen years of age based on declarations by the alleged victim. [1980 c 53 § 2.]

9.68A.030 Sending, bringing into state, possessing, publishing, printing, etc., obscene matter involving minor engaged in sexually explicit conduct—Class C felony.

A person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, or prints with intent to distribute, sell, or exhibit to others for commercial consideration, any visual or printed matter which is obscene, knowing that the production of such matter involves the use of a minor engaged in sexually explicit conduct and that the matter depicts such conduct, is guilty of a Class C felony.

This section does not apply to acts which are an integral part of the exhibition or performance of the motion picture when such acts are done within the scope of employment by a motion picture operator or projectionist employed by the owner or manager of a theater or other place for the showing of motion pictures, unless the motion picture operator or projectionist has a financial interest in such theater or place wherein employed or unless the operator or projectionist caused to be performed or exhibited the performance or motion picture without the consent of the manager or owner of the theater or other place of showing. [1980 c 53 § 3.]

9.68A.900 Severability—1980 c 53. 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. [1980 c 53 § 5.]

Chapter 9.95

PRISON TERMS, PAROLES AND PROBATION

Sections

9.95.210 Conditions may be imposed on probation.

9.95.210 Conditions may be imposed on probation.

The court in granting probation, may suspend the imposing or the execution of the sentence and may direct that such suspension may continue for such period of time, not exceeding the maximum term of sentence, except as hereinafter set forth and upon such terms and conditions as it shall determine.

The court in the order granting probation and as a condition thereof, may in its discretion imprison the defendant in the county jail for a period not exceeding one year or may fine the defendant any sum not exceeding one thousand dollars plus the costs of the action, and may in connection with such probation impose both imprisonment in the county jail and fine and court costs. The court may also require the defendant to make such monetary payments, on such terms as it deems appropriate under the circumstances, as are necessary (1) to comply with any order of the court for the payment of family support, (2) to make restitution to any person or persons who may have suffered loss or damage by reason of the commission of the crime in question, (3) to pay such fine as may be imposed and court costs, including reimbursement of the state for costs of extradition if return to this state by extradition was required, and (4) to contribute to a county or interlocal drug fund, and may require bonds for the faithful observance of any and all conditions imposed in the probation. The court shall order the probationer to report to the secretary of social and health services or such officer as the secretary may designate and as a condition of said probation to follow implicitly the instructions of the secretary. If the probationer has been ordered to make restitution, the officer supervising the probationer shall make a reasonable effort to ascertain whether restitution has been made. If restitution has not been made as ordered, the officer shall inform the prosecutor of that violation of the terms of probation not less than three months prior to the termination of the probation period. The secretary of social and health services will promulgate rules and regulations for the conduct of such person during the term of his probation: *Provided*, That for defendants found guilty in justice court, like functions as the secretary performs in regard to probation may be performed by probation officers employed for that purpose by the board of county commissioners of the county wherein the court is located. [1980 c 19 § 1. Prior: 1979 c 141 § 7; 1979 c 29 § 2; 1969 c 29 § 1; 1967 c 200 § 8; 1967 c 134 § 16; 1957 c 227 § 4; prior: 1949 c 77 § 1; 1939 c 125 § 1, part; Rem. Supp. 1949 § 10249-5b.]

Restitution as alternative to fine: RCW 9A.20.030.

Restitution as condition to suspending sentence: RCW 9.92.060.

Termination of suspended sentence, restoration of civil rights: RCW 9.92.066.

Violations of probation conditions, rearrest, detention: RCW 72.04A.090.

Chapter 9.96
RESTORATION OF CIVIL RIGHTS

Sections

9.96.050 Final discharge of parolee—Restoration of civil rights—Governor's pardoning power not affected.

9.96.050 Final discharge of parolee—Restoration of civil rights—Governor's pardoning power not affected. When a prisoner on parole has performed the obligations of his release for such time as shall satisfy the board of prison terms and paroles that his final release is not incompatible with the best interests of society and the welfare of the paroled individual, the board may make a final order of discharge and issue a certificate of discharge to the prisoner. The board retains the jurisdiction to issue a certificate of discharge after the expiration of the prisoner's or parolee's maximum statutory sentence: *Provided*, That no such order of discharge shall be made in any case within a period of less than one year from the date on which the board has conditionally discharged the parolee from active supervision by a probation and parole officer, except where the parolee's maximum statutory sentence expires earlier. Such discharge, regardless of when issued, shall have the effect of restoring all civil rights lost by operation of law upon conviction, and the certification of discharge shall so state.

The discharge provided for in this section shall be considered as a part of the sentence of the convicted person and shall not in any manner be construed as affecting the powers of the governor to pardon any such person. [1980 c 75 § 1; 1961 c 187 § 1.]

Title 9A

WASHINGTON CRIMINAL CODE

[See also Crimes and Punishments, Title 9 RCW]

Chapters

9A.64 Family offenses.

Chapter 9A.64
FAMILY OFFENSES

Sections

9A.64.030 Child selling—Child buying.

9A.64.030 Child selling—Child buying. (1) It is unlawful for any person to sell or purchase a minor child.

(2) A transaction shall not be a purchase or sale under subsection (1) of this section if any of the following exists:

(a) The transaction is between the parents of the minor child; or

(b) The transaction is between a person receiving or to receive the child and a benevolent or charitable society recognized under RCW 26.37.010, as now existing or hereafter amended; or

(c) The transaction is between the person receiving or to receive the child and a state agency or other governmental agency; or

(d) The transaction is pursuant to chapter 26.34 RCW, as now existing or hereafter amended; or

(e) The transaction is pursuant to court order; or

(f) The only consideration paid by the person receiving or to receive the child is intended to pay for the prenatal hospital or medical expenses involved in the birth of the child, or attorneys' fees and court costs involved in effectuating transfer of child custody.

(3) Child selling is a class C felony and child buying is a class C felony. [1980 c 85 § 3.]

Severability—1980 c 85: See note following RCW 26.32.030.

Title 10

CRIMINAL PROCEDURE

Chapters

10.29 State-wide special inquiry judge act.

10.31 Warrants and arrests.

10.79 Searches and seizures.

Chapter 10.29

STATE-WIDE SPECIAL INQUIRY JUDGE ACT

Sections

| | |
|-----------|---|
| 10.29.010 | Short title. |
| 10.29.020 | Intent. |
| 10.29.030 | Appointment of state-wide special inquiry judge—Petition—Procedure—Term—Extension—Confidentiality. |
| 10.29.040 | Scope of investigation and state-wide special inquiry judge proceeding—Request for authority to investigate other crimes. |
| 10.29.050 | Powers and duties of state-wide special inquiry judge. |
| 10.29.060 | Witness disclosing being called or nature of testimony—Penalty. |
| 10.29.070 | Rules. |
| 10.29.080 | Special prosecutor—Selection—Qualifications—Removal. |
| 10.29.090 | Operating budget—Contents—Audit. |
| 10.29.100 | Vacancy in office of state-wide special inquiry judge or special prosecutor. |
| 10.29.110 | Duties of special prosecutor or designee. |
| 10.29.120 | County prosecuting attorney to be advised—Filing and prosecution of informations—Expenses of prosecutions. |
| 10.29.130 | State-wide special inquiry judge—Disqualification from subsequent proceedings. |
| 10.29.900 | Severability—1980 c 146. |

Organized crime advisory board: RCW 43.43.858.

Special inquiry judge: RCW 10.27.050, 10.27.170-10.27.190.

10.29.010 Short title. This chapter shall be known and may be cited as the State-wide Special Inquiry Judge Act. [1980 c 146 § 1.]

10.29.020 Intent. It is the intent of the legislature in enacting this chapter to strengthen and enhance the ability of the state to detect and eliminate organized criminal activity. [1980 c 146 § 2.]

10.29.030 Appointment of state-wide special inquiry judge—Petition—Procedure—Term—Extension—Confidentiality. (1) The organized crime advisory board shall have the authority, by a three-fourths vote at a regularly constituted meeting, to petition the Washington state supreme court for an order appointing a special inquiry judge as prescribed by this section. Such vote may be on its own motion or pursuant to a request from the prosecuting attorney of any county. In the event of such request from a prosecuting attorney the board shall vote on the question promptly. A petition filed under this section shall state the general crimes or wrongs to be inquired into and shall state the reasons why said crimes or wrongs are such that a state-wide special inquiry judge should be authorized to investigate. The supreme court may order the appointment of a state-wide special inquiry judge, in accordance with the petition, for a term of six calendar months. Upon petition by the special prosecutor, and with the approval of the majority of the members of the organized crime advisory board, the supreme court, by order, may extend the term of the state-wide special inquiry judge for three months. The term of the state-wide special inquiry judge may subsequently be extended in the same manner for additional three-month periods.

(2) If the petition is granted, the supreme court shall designate a judge of a superior court to act as a special inquiry judge. The supreme court shall ensure that sufficient visiting judges are made available to the superior court from which the appointment is made in order to compensate for any loss of judicial time.

(3) All of the information and data collected and processed by the organized crime advisory board and the petition filed with the supreme court shall be confidential and not subject to examination or publication pursuant to chapter 42.17 RCW (Initiative Measure No. 276), as now existing or hereafter amended, except as provided by rules of the supreme court of Washington in the case of the petition. [1980 c 146 § 3.]

10.29.040 Scope of investigation and state-wide special inquiry judge proceeding—Request for authority to investigate other crimes. The scope of the investigation and of the special inquiry judge proceeding shall be limited to the general crimes and wrongs specified in the petition filed under RCW 10.29.030. The special prosecutor or special inquiry judge, however, may request authority to investigate other crimes by submitting a list of such crimes to the organized crime advisory board which may grant authorization to proceed by a three-fourths vote of the membership. [1980 c 146 § 4.]

10.29.050 Powers and duties of state-wide special inquiry judge. A state-wide special inquiry judge shall have the following powers and duties:

(1) To hear and receive evidence of crime and corruption.

(2) To appoint a reporter to record the proceedings; and to swear the reporter not to disclose any testimony or the name of any witness except as provided in RCW 10.27.090.

(3) Whenever necessary, to appoint an interpreter, and to swear him not to disclose any testimony or the name of any witness except as provided in RCW 10.27.090.

(4) When a person held in official custody is a witness before a state-wide special inquiry judge, a public servant, assigned to guard him during his appearance may accompany him. The state-wide special inquiry judge shall swear such public servant not to disclose any testimony or the name of any witness except as provided in RCW 10.27.090.

(5) To cause to be called as a witness any person believed by him to possess relevant information or knowledge. If the state-wide special inquiry judge desires to hear any such witness who was not called by the special prosecutor, it may direct the special prosecutor to issue and serve a subpoena upon such witness and the special prosecutor must comply with such direction. At any time after service of such subpoena and before the return date thereof, however, the special prosecutor may apply to the state-wide special inquiry judge for an order vacating or modifying the subpoena on the grounds that such is in the public interest. Upon such application, the state-wide special inquiry judge may in its discretion vacate the subpoena, extend its return date, attach reasonable conditions to directions, or make such other qualification thereof as is appropriate.

(6) Upon a showing of good cause may make available any or all evidence obtained to any other public attorney, prosecuting attorney, city attorney, or corporation counsel upon proper application and with the concurrence of the special prosecutor. Any witness' testimony, given before a state-wide special inquiry judge and relevant to any subsequent proceeding against the witness, shall be made available to the witness upon proper application to the state-wide special inquiry judge. The state-wide special inquiry judge may also, upon proper application and upon a showing of good cause, make available to a defendant in a subsequent criminal proceeding other testimony or evidence when given or presented before a special inquiry judge, if doing so is in the furtherance of justice.

(7) Have authority to perform such other duties as may be required to effectively implement this chapter, in accord with rules adopted by the supreme court relating to these proceedings.

(8) Have authority to hold in contempt of court any person who shall disclose the name or testimony of a witness examined before a state-wide special inquiry judge except when required by a court to disclose the testimony given before such state-wide special inquiry judge in a subsequent criminal proceeding. [1980 c 146 § 5.]

10.29.060 Witness disclosing being called or nature of testimony—Penalty. Any witness who shall disclose the fact that he or she has been called as a witness before a state-wide special inquiry judge or who shall disclose the nature of the testimony given shall be guilty of a misdemeanor. [1980 c 146 § 6.]

10.29.070 Rules. The supreme court shall develop and adopt rules to govern the procedures of a state-wide special inquiry judge proceeding including rules assuring the confidentiality of all proceedings, testimony, and the identity of persons called as witnesses. The adoption of such rules shall be subject to the approval of such rules by the senate and house judiciary committees. [1980 c 146 § 7.]

10.29.080 Special prosecutor—Selection—Qualifications—Removal. If the supreme court appoints a state-wide special inquiry judge under RCW 10.29.030, the organized crime advisory board shall submit to the governor the name of an individual who, with the consent of the governor, shall serve as special prosecutor for the state-wide special inquiry judge proceeding. Any individual whose name is submitted under this section to the governor shall be licensed to practice law in the state of Washington and shall have at least five years' professional experience as one or more of the following: (1) Prosecuting attorney; (2) deputy prosecuting attorney; (3) United States attorney; or (4) assistant United States attorney. No such person shall have resided during the five years immediately preceding the appointment in a county in which the state-wide special inquiry judge will likely be required to investigate crimes. A special prosecutor appointed under this section shall be removed only upon a majority recommendation of the organized crime advisory board and the consent of the governor. [1980 c 146 § 8.]

10.29.090 Operating budget—Contents—Audit. Within ten days of his or her appointment, a special prosecutor selected under this chapter shall submit to the organized crime advisory board an operating budget to fund the activities of his or her office. The budget may include, but shall not be limited to, funds for the hiring of assistant special prosecutors, investigators, and clerical staff. Upon the approval of the budget by a majority of the members of the board, the costs and expenses of the prosecutor's operating budget shall be paid for by the state out of the organized crime prosecution revolving fund. Further operating budgets shall be proposed, approved, and funded pursuant to this section if the term of a state-wide special inquiry judge is extended pursuant to RCW 10.29.030.

Vouchers and other budget and accounting records of a special inquiry judge proceeding including such records of the special prosecutor shall be subject to audit by the state auditor but shall not be public records within the meaning of chapter 42.17 RCW. [1980 c 146 § 9.]

Organized crime prosecution revolving fund: RCW 43.43.866.

10.29.100 Vacancy in office of state-wide special inquiry judge or special prosecutor. Whenever a state-wide special inquiry judge or special prosecutor appointed under this chapter dies or in any other way is rendered incapable of continuing the duties of his or her office, a successor shall be appointed to serve for the remainder of the judge's or prosecutor's term in the manner provided for by RCW 10.29.030 and 10.29.080 for the appointment of state-wide special inquiry judges and special prosecutors. [1980 c 146 § 10.]

10.29.110 Duties of special prosecutor or designee. The special prosecutor or his designee shall:

(1) Attend all proceedings of the state-wide special inquiry judge;

(2) Have the authority to issue subpoenas for witnesses state-wide;

(3) Examine witnesses, present evidence, draft reports as directed by the state-wide special inquiry judge, and draft and file informations under RCW 10.29.120. [1980 c 146 § 11.]

10.29.120 County prosecuting attorney to be advised—Filing and prosecution of informations—Expenses of prosecutions. (1) The special prosecutor shall advise the county prosecuting attorney in any affected county of the nature of the state-wide special inquiry judge investigation and of any informations arising from such proceedings unless such disclosures will create a substantial likelihood of a conflict of interest for the county prosecuting attorney.

(2) The special prosecutor may file and prosecute an information in the county where proper venue lies, after having advised the county prosecuting attorney as provided in this section and determined that such prosecuting attorney does not intend to do so, or pursuant to an agreement between them that the special prosecutor shall do so.

(3) Informations filed and prosecuted pursuant to this chapter shall meet the requirements of chapter 10.37 RCW.

(4) The expenses of prosecutions initiated and maintained by the special prosecutor shall be paid as part of the state-wide special inquiry judge program as provided in RCW 10.29.090. [1980 c 146 § 12.]

10.29.130 State-wide special inquiry judge—Disqualification from subsequent proceedings. The judge serving as a special inquiry judge shall be disqualified from acting as a magistrate or judge in any subsequent court proceeding arising from such inquiry except alleged contempt for neglect or refusal to appear, testify, or provide evidence at such inquiry in response to an order, summons, or subpoena. [1980 c 146 § 13.]

10.29.900 Severability—1980 c 146. If any provision of this 1980 act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1980 c 146 § 19.]

Chapter 10.31

WARRANTS AND ARRESTS

Sections

10.31.100 Arrest without warrant—Felony—Misdemeanor or gross misdemeanor in presence of officer, exceptions—Crimes involving physical harm, taking property, cannabis, traffic offenses.

10.31.100 Arrest without warrant—Felony—Misdemeanor or gross misdemeanor in presence of officer, exceptions—Crimes involving physical harm, taking property, cannabis, traffic offenses. A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant. A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of the officer, except as provided in subsections (1) through (3) of this section.

(1) Any police officer having probable cause to believe that a person has committed or is committing a misdemeanor or gross misdemeanor, involving physical harm or threats of harm to any person or property or the unlawful taking of property or involving the use or possession of cannabis shall have the authority to arrest the person.

(2) Any police officer having probable cause to believe that a person has committed or is committing a violation of any of the following traffic laws shall have the authority to arrest the person:

(a) RCW 46.52.010, relating to duty on striking an unattended car or other property;

(b) RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(c) RCW 46.61.500 or 46.61.530, relating to reckless driving or racing of vehicles;

(d) RCW 46.61.502 or 46.61.504, relating to persons under the influence of intoxicating liquor or drugs;

(e) RCW 46.61.525, relating to operating a motor vehicle in a negligent manner.

(3) A law enforcement officer investigating at the scene of a motor vehicle accident may arrest the driver of a motor vehicle involved in the accident if the officer has probable cause to believe that the driver has committed in connection with the accident a violation of any traffic law or regulation.

(4) Except as specifically provided in subsections (2) and (3) of this section, nothing in this section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW. [1980 c 148 § 8; 1979 ex.s. c 28 § 1; 1969 ex.s. c 198 § 1.]

Arrest procedure involving traffic violations: Chapter 46.64 RCW.

Uniform controlled substances act: Chapter 69.50 RCW.

Chapter 10.79

SEARCHES AND SEIZURES

Sections

10.79.015 Other grounds for issuance of search warrant.

10.79.015 Other grounds for issuance of search warrant. Any such magistrate, when satisfied that there is reasonable cause, may also, upon like complaint made on oath, issue search warrant in the following cases, to wit:

(1) To search for and seize any counterfeit or spurious coin, or forged instruments, or tools, machines or materials, prepared or provided for making either of them.

(2) To search for and seize any gaming apparatus used or kept, and to be used in any unlawful gaming house, or in any building, apartment or place, resorted to for the purpose of unlawful gaming.

(3) To search for and seize any evidence material to the investigation or prosecution of any homicide or any felony: *Provided*, That if the evidence is sought to be secured from any radio or television station or from any regularly published newspaper, magazine or wire service, or from any employee of such station, wire service or publication, the evidence shall be secured only through a subpoena duces tecum unless: (a) There is probable cause to believe that the person or persons in possession of the evidence may be involved in the crime under investigation; or (b) there is probable cause to believe that the evidence sought to be seized will be destroyed or hidden if subpoena duces tecum procedures are followed. As used in this subsection, "person or persons" includes both natural and judicial persons.

(4) To search for and seize any instrument, apparatus or device used to obtain telephone or telegraph service in violation of RCW 9.45.240. [1980 c 52 § 1; 1972 ex.s. c 75 § 2; 1969 c 83 § 1; 1949 c 86 § 1; Code 1881 § 986; 1873 p 216 § 154; 1854 p 101 § 2; Rem. Supp. 1949 § 2238. Formerly RCW 10.79.010, part.]

Title 11

PROBATE LAW AND PROCEDURE—
1965 ACT

Chapters

11.62 Estates under \$10,000—Disposition of debts, personal property taxes, etc., by affidavit.

Chapter 11.62

ESTATES UNDER \$10,000—DISPOSITION OF
DEBTS, PERSONAL PROPERTY TAXES, ETC., BY
AFFIDAVIT

Sections

11.62.030 Payment to surviving spouse of moneys on deposit of deceased credit union member—Limitation—Affidavit—Accounting to personal representative.

11.62.030 Payment to surviving spouse of moneys on deposit of deceased credit union member—Limitation—Affidavit—Accounting to personal representative. On the death of any member of any credit union organized under chapter 31.12 RCW or federal law, such credit union may pay to the surviving spouse the moneys of such member on deposit to the credit of said deceased member, including moneys deposited as shares in said credit union, 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 member died and no executor or administrator has been appointed for the member's estate, and the member had on deposit in said credit union 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 credit union 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*, That 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 credit union 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. [1980 c 41 § 10.]

Severability—1980 c 41: See note following RCW 31.12.080.

Title 12

JUSTICE COURTS—CIVIL PROCEDURE

Chapters

- 12.12 Trial.**
- 12.36 Appeals.**
- 12.40 Small claims.**

**Chapter 12.12
TRIAL**

Sections
12.12.050 Repealed.

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

**Chapter 12.36
APPEALS**

Sections
12.36.010 Appeal authorized. (Effective until January 1, 1981.)
12.36.010 Appeal authorized. (Effective January 1, 1981.)

12.36.010 Appeal authorized. (Effective until January 1, 1981.) Any person considering himself aggrieved by the judgment or decision of a justice of the peace in a civil action may, in person or by his agent or attorney, appeal therefrom to the superior court of the county where the judgment was rendered or decision made: *Provided*, There shall be no appeal allowed unless the amount in controversy, exclusive of costs, shall exceed the sum of twenty dollars. [1929 c 58 § 1; RRS § 1910. Prior: 1905 c 20 § 1; 1891 c 29 § 1; Code 1881 § 1858; 1873 p 367 § 156; 1854 p 252 § 160.]

12.36.010 Appeal authorized. (Effective January 1, 1981.) Any person considering himself aggrieved by the judgment or decision of a justice of the peace in a civil action may, in person or by his agent or attorney, appeal therefrom to the superior court of the county where the judgment was rendered or decision made: *Provided*, There shall be no appeal allowed unless the amount in controversy, exclusive of costs, shall exceed the sum of twenty dollars: *Provided further*, That an appeal from the court's determination or order on a traffic infraction proceeding may be taken only in accordance with RCW 46.63.090(5). [1979 ex.s. c 136 § 21; 1929 c 58 § 1; RRS § 1910. Prior: 1905 c 20 § 1; 1891 c 29 § 1; Code 1881 § 1858; 1873 p 367 § 156; 1854 p 252 § 160.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

**Chapter 12.40
SMALL CLAIMS**

Sections
12.40.030 Setting case for hearing—Fees.

12.40.030 Setting case for hearing—Fees. Upon filing said claim such justice of the peace shall appoint a time for the hearing of said matter and shall cause to be issued a notice of the claim, as hereinafter provided, which shall be served upon the defendant.

Said justice of the peace shall collect in advance upon each claim the sum of five dollars, and this shall be the only fee for such justice of the peace to be charged or taxed against the plaintiff in such action during the pendency or disposition of said claim: *Provided, however*, That when any such "small claims department" shall be created and organized in any justice court as herein provided, in which the justice is not paid a salary, he may be paid as compensation for conducting such department from the county treasury of his county such monthly salary as the county court and commissioners of said county shall deem just and proper. [1980 c 162 § 11; 1963 c 123 § 2; 1919 c 187 § 3; RRS § 1777-3.]

Severability—1980 c 162: See note following RCW 3.02.010.

Title 13
JUVENILE COURTS AND JUVENILE
DELINQUENTS

Chapters

- 13.04** Basic juvenile court act.
13.40 Juvenile justice act of 1977.

Chapter 13.04

BASIC JUVENILE COURT ACT
(Formerly: Juvenile courts)

Sections

- 13.04.030** Juvenile court—Exclusive original jurisdiction. (Effective January 1, 1981.)

13.04.030 Juvenile court—Exclusive original jurisdiction. (Effective January 1, 1981.) 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, as now or hereafter amended;

(3) Relating to the termination of a parent and child relationship as provided in RCW 13.34.180 through 13.34.210, as now or hereafter amended;

(4) To approve or disapprove alternative residential placement as provided in RCW 13.32A.170;

(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 juveniles alleged or found to have committed offenses, traffic infractions, or violations as provided in RCW 13.40.020 through 13.40.230, as now or hereafter amended, unless:

(a) The juvenile court transfers jurisdiction of a particular juvenile to adult criminal court pursuant to RCW 13.40.110, as now or hereafter amended; or

(b) The statute of limitations applicable to adult prosecution for the offense, traffic infraction, or violation has expired; or

(c) The alleged offense or infraction is a traffic, fish, boating, or game offense or traffic infraction committed by a juvenile sixteen years of age or older and would, if committed by an adult, be tried or heard in a court of limited jurisdiction, in which instance the appropriate court of limited jurisdiction shall have jurisdiction over the alleged offense or infraction: *Provided*, That if such an alleged offense or infraction and an alleged offense or infraction subject to juvenile court jurisdiction arise out of the same event or incident, the juvenile court may have jurisdiction of both matters: *Provided further*, That the jurisdiction under this subsection does not constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1) or subsection (6)(a) of this section; and

(7) Under the interstate compact on juveniles as provided in chapter 13.24 RCW. [1980 c 128 § 6; 1979 c 155 § 3; 1977 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—1980 c 128: See notes following RCW 46.63.060.

Appropriation—Effective date—Severability—1979 c 155: See notes following RCW 13.04.011.

Effective dates—Severability—1977 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 65).

Chapter 13.40**JUVENILE JUSTICE ACT OF 1977****Sections**

- 13.40.250** Traffic infraction cases. (Effective January 1, 1981.)

13.40.250 Traffic infraction cases. (Effective January 1, 1981.) A traffic infraction case involving a juvenile under the age of sixteen may be diverted in accordance with the provisions of this chapter or filed in juvenile court.

(1) If a notice of traffic infraction is filed in juvenile court, the juvenile named in the notice shall be afforded the same due process afforded to adult defendants in traffic infraction cases.

(2) A monetary penalty imposed upon a juvenile under the age of sixteen who is found to have committed a traffic infraction may not exceed one hundred dollars. At the juvenile's request, the court may order performance of a number of hours of community service in lieu of a monetary penalty, at the rate of the prevailing state minimum wage per hour.

(3) A diversion agreement entered into by a juvenile referred pursuant to this section shall be limited to thirty hours of community service, or educational or informational sessions.

(4) If a case involving the commission of a traffic infraction or offense by a juvenile under the age of sixteen has been referred to a diversion unit, an abstract of the action taken by the diversion unit may be forwarded to the department of licensing in the manner provided for in RCW 46.20.270(2). [1980 c 128 § 16.]

Effective date—Severability—1980 c 128: See notes following RCW 46.63.060.

Title 17**WEEDS, RODENTS AND PESTS****Chapters**

- 17.10** Noxious weeds—Control boards.

Chapter 17.10

NOXIOUS WEEDS—CONTROL BOARDS

Sections

17.10.050 Activated county noxious weed control board—
Members—Election—Terms—Meetings—
Quorum—Expenses—Officers—Vacancy.

17.10.050 Activated county noxious weed control board—Members—Election—Terms—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 (1) the county legislative authority shall, when a board is first activated under this chapter, designate two voting members to serve terms of one year; (2) the terms of incumbent board members may be shortened or extended by the board if the board, in order to provide for a more convenient election date, makes a substantial change in the date for elections and if the board obtains the prior approval of the state noxious weed control board for the changes in election dates and in the terms of incumbent board members. 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: *Provided*, That such nominations and elections may be held in another section of the county at the request of the county board and subject to approval by the state weed board. 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. [1980 c 95 § 1; 1977 ex.s. c 26 § 6; 1975 1st ex.s. c 13 § 3; 1974 ex.s. c 143 § 1; 1969 ex.s. c 113 § 5.]

Title 18

BUSINESSES AND PROFESSIONS

Chapters

- 18.25 Chiropractic.
- 18.26 Chiropractic disciplinary board.
- 18.27 Registration of contractors.
- 18.37 Electricians.
- 18.51 Nursing homes.
- 18.55 Ocularists.
- 18.73 Emergency medical care and transportation services.
- 18.85 Real estate brokers and salesmen.

Chapter 18.25

CHIROPRACTIC

Sections

18.25.015 Board created—Composition—Terms.
18.25.025 Board accreditation of chiropractic schools and colleges—Standards—Assistants for examinations authorized.
18.25.060 Repealed.
18.25.070 Annual renewal of license—Attendance at approved symposiums required—Fees—Forfeiture—Penalties—Reexamination.

18.25.015 Board created—Composition—Terms. There is hereby created a state board of chiropractic examiners consisting of three practicing chiropractors to conduct examinations and perform duties as provided in this chapter.

Members of the board shall be appointed by the governor, who may consider such persons who are recommended for appointment by chiropractic associations of this state. For at least five years preceding the time of their appointment, and during their tenure of office, the members of the board must be actual residents of Washington, licensed to practice chiropractic in this state, and must be citizens of the United States.

In order that the terms of members shall expire in succession, first members appointed shall serve as follows: One for a term of three years, one for a term of two years, and one for a term of one year; thereafter appointments shall be for a term of three years. Vacancies of members shall be filled by the governor as in the case of original appointment, such appointee to hold office for the remainder of the unexpired term. [1980 c 51 § 1; 1965 ex.s. c 50 § 1; 1959 c 53 § 1.]

Severability—1980 c 51: "If any provision of this 1980 act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 51 § 6.]

18.25.025 Board accreditation of chiropractic schools and colleges—Standards—Assistants for examinations authorized. The board shall have authority to grant accreditation to chiropractic schools and colleges.

The board shall have authority to adopt educational standards which may include standards of any accreditation agency recognized by the office of education of the department of health and human services or its successor agency, or any portion of such standards, as the board's standards: *Provided*, That such standards, so adopted, shall contain, as a minimum of on-campus instruction in chiropractic, the following: Principles of chiropractic, two hundred hours; adjustive technique, four hundred hours; spinal roentgenology, one hundred seventy-five hours; symptomatology and diagnosis, four hundred twenty-five hours; clinic, six hundred twenty-five hours: *Provided further*, That such standards shall not mandate, as a requirement for either graduation or accreditation, or include in the computation of hours of chiropractic instruction required by this section, instruction in the following: Mechanotherapy, physiotherapy, acupuncture, acupressure, or any other therapy.

The board shall approve and accredit chiropractic colleges and schools which apply for board accreditation and approval and which meet to the board's satisfaction the educational standards adopted by the board. It shall be the responsibility of the college to apply for accreditation and approval, and of a student to ascertain whether a college or school has been accredited or approved by the board.

The board shall have authority to engage assistants in the giving of examinations called for under this chapter. [1980 c 51 § 3.]

Severability—1980 c 51: See note following RCW 18.25.015.

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

18.25.070 Annual renewal of license—Attendance at approved symposiums required—Fees—Forfeiture—Penalties—Reexamination. (1) Every person practicing chiropractic shall, as a prerequisite to annual renewal of license, submit to the director at the time of application therefor, satisfactory proof showing attendance of at least twenty-five hours during the preceding three-year period, at one or more chiropractic symposiums which are recognized and approved by the board of

chiropractic examiners: *Provided*, That the board may, for good cause shown, waive said attendance. The following guidelines for such symposiums shall apply:

(a) Symposiums which shall be approved by the board for licensees practicing or residing within the state of Washington are those sponsored or conducted by any chiropractic association in the state or an approved chiropractic college or other institutions or organizations which devote themselves to lectures or demonstrations concerning matters which are recognized in the state of Washington chiropractic licensing laws;

(b) Rules shall be adopted by the board for licensees practicing and residing outside the state who shall meet all requirements established by the board by rules and regulations.

(2) Every person practicing chiropractic within this state shall pay on or before the first day of September of each year, after a license is issued to him as herein provided, to said director a renewal license fee to be determined by the director as provided in RCW 43.24.085 as now or hereafter amended. The director shall, thirty days or more before September first of each year, mail to all chiropractors in the state a notice of the fact that the renewal fee will be due on or before the first of September. Nothing in this chapter shall be construed so as to require that the receipts shall be recorded as original licenses are required to be recorded.

The failure of any licensed chiropractor to pay his annual license renewal fee by the first day of October following the date on which the fee was due shall work a forfeiture of his license. It shall not be reinstated except upon evidence that continuing educational requirements have been fulfilled and the payment of a penalty to be determined by the director as provided in RCW 43.24.085 as now or hereafter amended, together with all annual license renewal fees delinquent at the time of the forfeiture, and those for each year thereafter up to the time of reinstatement. Should the licentiate allow his license to elapse for more than three years, he must be reexamined as provided for in RCW 18.25.040. [1980 c 51 § 2; 1975 1st ex.s. c 30 § 22; 1974 ex.s. c 97 § 11; 1971 ex.s. c 266 § 5; 1959 c 53 § 5; 1919 c 5 § 10; RRS § 10105.]

Severability—1980 c 51: See note following RCW 18.25.015.

Severability—1974 ex.s. c 97: See note following RCW 18.25.120.

Chapter 18.26

CHIROPRACTIC DISCIPLINARY BOARD

Sections

18.26.040

18.26.070

Board created—Composition—Terms.

Compensation and reimbursement of members.

18.26.040 Board created—Composition—Terms. There is hereby created the Washington state chiropractic disciplinary board of seven members to be composed of six chiropractic members to be appointed by the governor, and one member appointed by the governor who shall be representative of the public at large. Initial members shall be named within thirty days

after May 2, 1979, whose names and addresses shall be promptly sent to the director of licensing, and such board shall meet and organize at a time and place to be determined by the director of licensing within sixty days after May 2, 1979 and after written notice to the named members of such date and place.

The director of licensing or the designee shall designate the terms of the initial members of the disciplinary board. For terms beginning on May 2, 1979, three members shall be designated for three-year terms; two members shall be designated for four-year terms; and two members shall be designated for five-year terms.

Subsequent designations shall be for a term of five years. [1980 c 46 § 1. Prior: 1979 ex.s. c 111 § 18; 1979 c 158 § 20; 1974 ex.s. c 97 § 13; 1967 c 171 § 4.]

Severability—1979 ex.s. c 111: See note following RCW 18.72.030.

Severability—1974 ex.s. c 97: See note following RCW 18.25.120.

18.26.070 Compensation and reimbursement of members. Members of the board may be paid thirty-five dollars for each day spent in performing their duties as members of the board and may be paid their travel expenses while engaged in the business of the board in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended, with such reimbursement to be paid out of the general fund on vouchers signed by the director of licensing. [1980 c 46 § 2. Prior: 1979 ex.s. c 111 § 20; 1979 c 158 § 22; 1975-'76 2nd ex.s. c 34 § 33; 1974 ex.s. c 97 § 14; 1967 c 171 § 7.]

Severability—1979 ex.s. c 111: See note following RCW 18.72.030.

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

Severability—1974 ex.s. c 97: See note following RCW 18.25.120.

Chapter 18.27

REGISTRATION OF CONTRACTORS

Sections

18.27.090 Exemptions.
18.27.100 Business practices—Advertising—Penalty.

Reviser's note—Sunset Act application: The contractor registration program is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.231. RCW 18.27.010 through 18.27.900 and 39.06.010 are scheduled for future repeal under RCW 43.131.232.

18.27.090 Exemptions. This chapter shall not apply to:

(1) An authorized representative of the United States government, the state of Washington, or any incorporated city, town, county, township, irrigation district, reclamation district, or other municipal or political corporation or subdivision of this state;

(2) Officers of a court when they are acting within the scope of their office;

(3) Public utilities operating under the regulations of the public service commission in construction, maintenance, or development work incidental to their own business;

(4) Any construction, repair, or operation incidental to the discovering or producing of petroleum or gas, or the drilling, testing, abandoning, or other operation of any petroleum or gas well or any surface or underground mine or mineral deposit when performed by an owner or lessee;

(5) The sale or installation of any finished products, materials, or articles of merchandise which are not actually fabricated into and do not become a permanent fixed part of a structure;

(6) Any construction, alteration, improvement, or repair of personal property;

(7) Any construction, alteration, improvement, or repair carried on within the limits and boundaries of any site or reservation under the legal jurisdiction of the federal government;

(8) Any person who only furnished materials, supplies, or equipment without fabricating them into, or consuming them in the performance of, the work of the contractor;

(9) Any work or operation on one undertaking or project by one or more contracts, the aggregate contract price of which for labor and materials and all other items is less than five hundred dollars, such work or operations being considered as of a casual, minor, or inconsequential nature. The exemption prescribed in this subsection does not apply in any instance wherein the work or construction is only a part of a larger or major operation, whether undertaken by the same or a different contractor, or in which a division of the operation is made into contracts of amounts less than five hundred dollars for the purpose of evasion of this chapter or otherwise. The exemption prescribed in this subsection does not apply to a person who advertises or puts out any sign or card or other device which might indicate to the public that he is a contractor, or that he is qualified to engage in the business of contractor;

(10) Any construction or operation incidental to the construction and repair of irrigation and drainage ditches of regularly constituted irrigation districts or reclamation districts; or to farming, dairying, agriculture, viticulture, horticulture, or stock or poultry raising; or to clearing or other work upon land in rural districts for fire prevention purposes; except when any of the above work is performed by a registered contractor;

(11) An owner who contracts for a project with a registered contractor;

(12) Any person working on his own property, whether occupied by him or not, and any person working on his residence, whether owned by him or not but this exemption shall not apply to any person otherwise covered by this chapter who constructs an improvement on his own property with the intention and for the purpose of selling the improved property;

(13) Owners of commercial properties who use their own employees to do maintenance, repair, and alteration work in or upon their own properties;

(14) A licensed architect or civil or professional engineer acting solely in his professional capacity, an electrician licensed under the laws of the state of Washington, or a plumber licensed under the laws of the state of

Washington or licensed by a political subdivision of the state of Washington while operating within the boundaries of such political subdivision. The exemption provided in this subsection is applicable only when the licensee is operating within the scope of his license;

(15) Any person who engages in the activities herein regulated as an employee of a registered contractor with wages as his sole compensation or as an employee with wages as his sole compensation;

(16) Contractors on highway projects who have been prequalified as required by chapter 13 of the Laws of 1961, RCW 47.28.070, with the highway department to perform highway construction, reconstruction, or maintenance work. [1980 c 68 § 2; 1974 ex.s. c 25 § 2. Prior: 1973 1st ex.s. c 161 § 1; 1973 1st ex.s. c 153 § 6; 1967 c 126 § 3; 1965 ex.s. c 170 § 50; 1963 c 77 § 9.]

Reviser's note: Powers, duties, and functions of highway department transferred to department of transportation; see RCW 47.01.031. Term "highway department" means department of transportation; see RCW 47.04.015.

Sunset Act application: See note following chapter digest.

18.27.100 Business practices—Advertising—Penalty. Except as provided in RCW 18.27.020 for partnerships and joint ventures, no person who has registered under one name as provided in this chapter shall engage in the business, or act in the capacity of a contractor under any other name unless such name also is registered hereunder. All advertising and all contracts, correspondence, cards, signs, posters, papers, and documents prepared by a contractor which show a contractor's name or address shall show the contractor's name or address as registered hereunder. The alphabetized listing of contractors appearing in the advertising section of telephone books and all advertising prepared by a contractor which shows the contractor's name or address shall show the contractor's current registration number: *Provided*, That signs on motor vehicles subject to RCW 46.16.010 and on-premise signs shall not constitute advertising as provided in this section. All materials prepared by a contractor and used to directly solicit business from retail customers who are not businesses shall show the contractor's current registration number. No contractor shall advertise that he is bonded and insured because of the bond required to be filed and sufficiency of insurance as provided in this chapter. All individual contractors and all partners, associates, agents, salesmen, solicitors, officers, and employees of contractors shall use their true names and addresses at all times while engaged in the business or capacity of a contractor or activities related thereto. Any person who is found to be in violation of this section by the director at a hearing held in accordance with the administrative procedure act, chapter 34.04 RCW, shall be required to pay a penalty of not more than one thousand dollars as determined by the director. [1980 c 68 § 1; 1979 ex.s. c 116 § 1; 1963 c 77 § 10.]

Sunset Act application: See note following chapter digest.

Effective date—1979 ex.s. c 116: "The provisions of this 1979 amendatory act shall become effective on January 1, 1980." [1979 ex.s. c 116 § 2.]

Chapter 18.37 ELECTRICIANS

Sections

18.37.010 through 18.37.150 Repealed.

Electricians, licensing: RCW 19.28.500 through 19.28.620.

18.37.010 through 18.37.150 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 18.51 NURSING HOMES

Sections

18.51.290 Writings deemed public record—Open to public inspection.

18.51.310 Patient assessment system—Revised licensing standards—Report on measuring services delivered—Regulations.

18.51.290 Writings deemed public record—Open to public inspection. Any writing received, owned, used, or retained by the department in connection with the provisions of this chapter is a public record and, as such, is open to public inspection. Copies of such records provided for public inspection shall comply with RCW 42.17.260(1). The names of duly authorized officers, employees, or agents of the department shall be included. [1980 c 184 § 4; 1975 1st ex.s. c 99 § 9.]

Conflict with federal requirements—1980 c 184: See RCW 74.42.630.

18.51.310 Patient assessment system—Revised licensing standards—Report on measuring services delivered—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, as now or hereafter amended, shall be computerized for the purpose of assisting in the setting of reimbursement for nursing homes in accordance with the documented needs of the client population in each home and for the provision of statistical and summary information for use by the department and the legislature.

(2) No later than December 31, 1980, the department shall adopt revised licensing standards for nursing homes. The licensing standards shall be suitable for implementing the civil penalty system authorized under this chapter, chapter 74.42 RCW, and chapter 177 *(Senate Bill No. 3250), Laws of 1980, if enacted.

(3) The department, the board of health, the school of medicine, the University of Washington, and the schools of nursing within the state shall jointly submit to the legislature, not later than December 20, 1980, alternative methods of identifying and measuring the results of services delivered by the nursing home.

(4) No later than July 1, 1981, the department shall adopt all those regulations which meet all conditions necessary to fully implement the civil penalty system authorized by this chapter, chapter 74.42 RCW, and

chapter 177 *(Senate Bill No. 3250), Laws of 1980, if enacted. [1980 c 184 § 5; 1979 ex.s. c 211 § 67; 1977 ex.s. c 244 § 1.]

***Reviser's note:** Senate Bill No. 3250 was enacted in the 1980 legislative session. 1980 c 177 consists of chapter 74.46 RCW, the amendments to RCW 74.09.120 and 74.42.610, and the repeal of RCW 74.09.550, 74.09.560, 74.09.570, 74.09.580, and 74.09.590.

Conflict with federal requirements—1980 c 184: See RCW 74.42.630.

Effective date—1979 ex.s. c 211: See RCW 74.42.920.

Chapter 18.55 OCULARISTS

Sections

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|-----------|---|
| 18.55.010 | Licensing—Exemptions—Limitations. |
| 18.55.020 | Definitions. |
| 18.55.030 | Licenses—Issuance—Time for renewal—Expiration. |
| 18.55.040 | License applicants—Qualifications—Examination—Exemption from examination. |
| 18.55.050 | Licenses—Renewal. |
| 18.55.060 | Apprentices. |
| 18.55.070 | Suspension or revocation of a license—Grounds. |
| 18.55.080 | Reinstatement of revoked or suspended license. |
| 18.55.090 | Unauthorized practice—Penalty. |
| 18.55.100 | Injunction to restrain violations. |
| 18.55.900 | Severability—1980 c 101. |

18.55.010 Licensing—Exemptions—Limitations. (1) Nothing in this chapter shall:

(a) Be construed to limit or restrict a duly licensed physician or employees working under the personal supervision of a duly licensed physician from the practices enumerated in this chapter;

(b) Be construed to prohibit an unlicensed person from performing mechanical work upon inert matter in an ocularist's office or laboratory;

(c) Be construed to authorize or permit a licensee under this chapter to hold himself or herself out as being able to, or to offer to, or to undertake to attempt, by any manner of means, to examine or exercise eyes, or diagnose, treat, correct, relieve, operate, or prescribe for disease or any visual deficiency.

(2) Each practitioner duly licensed pursuant to chapters 18.53, 18.57, and 18.71 RCW shall have all the rights and privileges which may accrue under this chapter to ocularists licensed under this chapter. [1980 c 101 § 1.]

18.55.020 Definitions. The terms defined in this section shall have the meaning ascribed to them wherever appearing in this chapter, unless a different meaning is specifically used to such term in such statute.

(1) "Director" means the director of licensing.

(2) "Ocularist" means a person who designs, fabricates, and fits ocular prosthetic appliances. An ocularist is authorized to perform the necessary procedures to provide an ocular prosthetic service for the patient in the ocularist's office or laboratory on prescription of a physician. The ocularist is authorized to make judgment on the needed care, replacement, and use of an ocular prosthetic appliance. The ocularist is authorized to design,

fabricate, and fit human prosthetics in the following categories:

- (a) Stock and custom prosthetic eyes;
- (b) Stock and custom therapeutic scleral shells;
- (c) Stock and custom therapeutic painted iris shells;
- (d) External orbital and facial prosthetics; and
- (e) Ocular conformers: *Provided*, That nothing herein shall be construed to allow the fitting or fabricating of contact lenses.

(3) "Apprentice" means a person designated an apprentice in the records of the director at the request of a licensed ocularist, and who shall thereafter receive from such licensee training and direct supervision in the work of an ocularist. [1980 c 101 § 2.]

Reviser's note: The term director of licenses has been changed to director of licensing in this section. See RCW 43.24.020.

18.55.030 Licenses—Issuance—Time for renewal—Expiration. Upon receipt of an application for a license and the license fee as determined by the director, the director shall issue a license if the applicant meets the requirements established under this chapter. The license, unless suspended or revoked, shall be renewed annually. All licenses issued under the provisions of this chapter shall expire on the 1st day of July. [1980 c 101 § 3.]

18.55.040 License applicants—Qualifications—Examination—Exemption from examination. (1) No applicant for a license shall be registered under this chapter until the applicant pays an examination fee as shall be determined by the director as provided in RCW 43.24.085, and certifies under oath that the applicant:

- (a) Is eighteen years or more of age;
- (b) Has graduated from high school;
- (c) Is of good moral character; and
- (d) Has either:

(i) Had at least five years of apprenticeship training under a licensed ocularist in the state of Washington; or

(ii) Successfully completed a prescribed course in ocularist training programs in a college, teaching facility, or university approved by the director; or

(iii) Been principally engaged in practicing as an ocularist outside the state of Washington for eight years and shall have been employed by a licensed ocularist or physician for one year in the state of Washington; and

(iv) Successfully passes with a grade of at least seventy-five percent, an examination, conducted by the director, which shall determine whether the applicant has a thorough knowledge of the principles governing the practice of an ocularist.

(2) The director shall issue a license without examination to any person who makes application therefor within six months after June 12, 1980, pays a fee as determined by the director, and certifies under oath that the applicant has been actually and principally engaged in the practice of an ocularist in the state of Washington for a period of not less than five years immediately preceding June 12, 1980.

(3) Any person who on June 12, 1980 (a) is employed as apprentice by a person who is principally engaged in

the practice of an ocularist, (b) registers with the director prior to one hundred twenty days after June 12, 1980, and (c) furnishes the director a statement, under oath, and certified as correct by the employer, as to the length of time of such employment shall be given credit for such period towards compliance with the requirement for five years' apprenticeship. [1980 c 101 § 4.]

18.55.050 Licenses—Renewal. Every licensee under this chapter shall pay an annual renewal registration fee determined by the director, as provided by RCW 43.24.085, on or before the 1st day of July of each year, and thereupon the license of such person shall be renewed for a period of one year. An application for renewal shall be on the form provided by the director and shall be filed with the department of licensing not less than ten days prior to its expiration. Each application for renewal shall be accompanied by a license fee as shall be determined by the director. Any license not renewed as provided in this section shall render the license invalid but such licensee shall be reinstated upon written application therefore to the director and payment of a renewal fee to the director as provided in RCW 43.24.085, together with all delinquent annual renewal license fees. [1980 c 101 § 7.]

18.55.060 Apprentices. (1) No licensee under this chapter may have more than two apprentices in training at one time.

(2) The licensee shall be responsible for the acts of the apprentices in the performance of their work in the apprenticeship program.

(3) Apprentices shall complete their apprenticeship in eight years and shall not work longer as an apprentice unless the director determines, after a hearing, that the apprentice was prevented by causes beyond his or her control from completing the apprenticeship and becoming a licensee hereunder in eight years. [1980 c 101 § 5.]

18.55.070 Suspension or revocation of a license—Grounds. A license may be suspended or revoked when a licensee:

(1) Has been convicted of a felony involving moral turpitude related to the practice of an ocularist;

(2) Is addicted to the use of alcohol or any drug;

(3) Has used advertising, whether printed, radio, display, or of any other nature, which is fraudulent, misleading, deceptive, or inaccurate in any material particular, or misrepresents in any way any goods, services, credit terms, values, policies, services, or the nature or form of the business conducted;

(4) Has practiced fraud or deception in the application for or during the examination for license;

(5) Has participated in the division, assignment, rebate, or refund of fees to a physician in consideration of patient referrals;

(6) Has bartered or given away as premiums in any manner either on the licensee's own account or as agent or representative for any other person;

(7) Has employed, either directly or indirectly, any person commonly known as "cappers" or "steerers" to obtain business;

(8) Has solicited or employed any person to solicit from house to house;

(9) Has used advertising offering a service to the public for which the licensee is not licensed under this chapter: *Provided*, That nothing in this section shall prohibit the ocularist from advertising merchandise for which the license which is the subject of this chapter is not required;

(10) Has engaged in a group contract for the ocularist's services without a prescription from a physician; or

(11) Has advertised the services of any other segment of the healing arts. [1980 c 101 § 6.]

18.55.080 Reinstatement of revoked or suspended license. The director, after a hearing, may for cause reissue or reinstate the license of a person whose license has been revoked or suspended. [1980 c 101 § 8.]

18.55.090 Unauthorized practice—Penalty. It shall be a gross misdemeanor for any person to practice as an ocularist without a license or while the license is suspended or revoked. [1980 c 101 § 9.]

18.55.100 Injunction to restrain violations. If any person engaged in the practice of an ocularist without possessing a valid license to do so, the attorney general, any prosecuting attorney, the director, or any citizen who resides in the same county as said practitioner who operates an office, may maintain an action in the name of the state of Washington to enjoin such person from engaging in practice as an ocularist. The injunction shall not relieve from criminal prosecution, but the remedy by injunction shall be in addition to the liability of such offender to criminal prosecution and to suspension or revocation of the license: *Provided, however*, That nothing in this chapter shall be deemed to prevent any licensed physician, licensed optometrist, or licensed dispensing optician from making any examination or performing any act permitted or authorized by law. [1980 c 101 § 10.]

18.55.900 Severability—1980 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. [1980 c 101 § 11.]

Chapter 18.73

EMERGENCY MEDICAL CARE AND TRANSPORTATION SERVICES

Sections

| | |
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| 18.73.210 | Legislative findings—Poisonous substances. |
| 18.73.220 | Establishment of state-wide program of poison control and drug information services. |
| 18.73.230 | Poison control and drug information program. |

18.73.210 Legislative findings—Poisonous substances. The legislature finds that accidental and purposeful ingestions of poisonous substances continues to be a severe health problem in the state of Washington. It further finds that a significant reduction in the consequences of such accidental ingestions have occurred as a result of the development of regional poison information centers.

The purpose of RCW 18.73.210 through 18.73.230 is to reduce morbidity and mortality associated with overdose and poisoning incidents by providing emergency telephone assistance and treatment referral to victims of such incidents, by providing immediate treatment information to health care professionals, and by establishing an effective public education and prevention program. Further, the purpose is to improve utilization of drugs by providing information to health professionals relating to appropriate therapeutic drug use. [1980 c 178 § 1.]

18.73.220 Establishment of state-wide program of poison control and drug information services. As limited by the availability of *funds appropriated by this act, the department shall support the establishment of a state-wide program of poison control and drug information services with regional units to be located in the city of Seattle and the city of Spokane and satellite units that may be established in the cities of Tacoma and Yakima. The services of this program shall be:

- (1) Emergency telephone management and treatment referral of victims of poisoning and overdose incidents;
- (2) Information to health professionals involved in management of poisoning and overdose victims;
- (3) Community education programs designed to inform the public of poison prevention methods; and
- (4) Information to health professionals relating to appropriate therapeutic use of medications, their compatibility and stability, and adverse drug reactions and interactions. [1980 c 178 § 2.]

*Reviser's note: The funds appropriated by 1980 c 178 are: "In addition to, and not in lieu of, any other appropriations, there is appropriated to the department of social and health services for the biennium ending June 30, 1981, from the general fund the sum of two hundred twenty-five thousand dollars, or so much thereof as may be necessary, to carry out the purposes of this act." [1980 c 178 § 4.] This act, 1980 c 178, is codified as RCW 18.73.210, 18.73.220, and 18.73.230.

18.73.230 Poison control and drug information program. (1) The principal activities of the poison control and drug information program shall be answering requests by telephone for poison information and making recommendations for appropriate emergency management and treatment referral of poisoning exposure and overdose victims. These services, provided around-the-clock, will involve determining whether treatment can be accomplished in the home setting or whether transport to an emergency treatment facility is required; recommending treatment measures to appropriate personnel;

and carrying out follow-up to assure that adequate care is provided.

(2) Program personnel shall provide follow-up education to prevent future similar incidents. They shall also provide community education programs designed to improve public awareness of poisoning and overdose problems, and to educate the public regarding prevention.

(3) Program personnel shall answer drug information questions from health professionals by providing current, accurate, and unbiased information relating to drugs and their therapeutic uses.

(4) The program shall utilize physicians, pharmacists, nurses, and supportive personnel trained in various aspects of toxicology, poison control and prevention, and drug information retrieval and analysis. [1980 c 178 § 3.]

Chapter 18.85

REAL ESTATE BROKERS AND SALESMEN

Sections

18.85.120

Applications—Conditions—Fees.

18.85.120 Applications—Conditions—Fees. 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 pass an examination as provided in this chapter. Such person shall make application for an examination and for a license on a form prescribed by the director. Concurrently, the applicant shall:

(1) Pay an examination fee of twenty-five dollars as directed by the director if a salesman's license is applied for and of forty dollars if a broker's license is applied for.

(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 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. [1980 c 72 § 1; 1979 c 25 § 1. Prior: 1977 ex.s. c 370 § 3; 1977 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.]

Title 19
BUSINESS REGULATIONS—
MISCELLANEOUS

Chapters

- 19.18** Comic books.
19.27 State building code.
19.28 Electricians and electrical installations.
19.100 Franchise investment protection.

Chapter 19.18
COMIC BOOKS

Sections

19.18.010 through 19.18.140, 19.18.900 Repealed.

19.18.010 through 19.18.140, 19.18.900 Repealed.
See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 19.27
STATE BUILDING CODE

Sections

19.27.030 National codes and standards—Adoption by reference—Conflicts.
19.27.060 Local building regulations superseded—Exceptions.

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, 1976 edition, published by the International Conference of Building Officials;

(2) Uniform Mechanical Code, 1976 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, 1976 edition, published by the International Conference of Building Officials and the Western Fire Chiefs Association: *Provided*, That, notwithstanding any wording in this code, participants in religious ceremonies shall not be precluded from carrying hand-held candles;

(4) The Uniform Plumbing Code, 1976 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. [1980 c 8 § 1; 1979 ex.s. c 76 § 1; 1977 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.

19.27.060 Local building regulations superseded—
Exceptions. (1) Except as permitted or provided otherwise under the provisions of RCW 19.27.040 and subsections (3), (4), and (5) of this section, the state building code supersedes all county, city or town building regulations containing less than the minimum performance standards and objectives contained in the state building code.

(2) Except as permitted or provided otherwise under the provisions of RCW 19.27.040 and subsections (3), (4), and (5) of this section, the state building code shall be applicable to all buildings and structures including those owned by the state or by any other governmental subdivision.

(3) The governing body of each city, town or county may limit the application of any rule or regulation or portion of the state building code to include or exclude specified classes or types of buildings or structures, according to use, occupancy, or such other distinctions as may make differentiation or separate classification or regulation necessary, proper, or desirable: *Provided*, That in no event shall fruits or vegetables of the tree or vine stored in buildings or warehouses, constitute combustible stock for the purposes of application of the uniform fire code.

(4) The provisions of this chapter shall not apply to any building four or more stories high with an F occupancy as defined by the uniform building code, chapter 6, 1973 edition, and with a fire insurance classification rating of 1, 2, or 3 as defined by a recognized fire rating bureau or organization.

(5) The provisions of the uniform fire code concerning access roadways for fire department apparatus applying to dwellings which are classified as group R, division 3 occupancies or group M occupancies in the 1976 edition of the uniform building code, shall be applied at the discretion of the governing body of each city, town or county. [1980 c 64 § 1; 1975 1st ex.s. c 282 § 2; 1974 ex.s. c 96 § 6.]

Chapter 19.28
ELECTRICIANS AND ELECTRICAL
INSTALLATIONS

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| Sections | |
| 19.28.200 | Licensing—Exemptions. |
| 19.28.350 | Violations of RCW 19.28.010 through 19.28.380—Penalty. |
| 19.28.370 | RCW 19.28.010 through 19.28.380 inapplicable to telegraph or telephone companies exercising certain functions. |
| 19.28.380 | RCW 19.28.010 through 19.28.380 inapplicable within rights of way of state highways if equal or better standards enforced. |
| 19.28.500 | Definitions. |
| 19.28.510 | Certificate of competency required—Electrical training certificate. |
| 19.28.520 | Application for certificate of competency. |
| 19.28.530 | Certificate of competency—Eligibility for examination—Rules. |
| 19.28.540 | Examinations—Contents—Times—Fees—Certification of results. |
| 19.28.550 | Certificate of competency—Issuance—Renewal—Effect. |
| 19.28.560 | Persons engaged in trade or business on July 16, 1973. |
| 19.28.570 | Temporary permits. |
| 19.28.580 | Revocation of certificate of competency—Grounds—Procedure. |
| 19.28.590 | Board of electrical examiners—Duties under RCW 19.28.500 through 19.28.620. |
| 19.28.600 | Powers and duties of director. |
| 19.28.610 | Exemptions from RCW 19.28.500 through 19.28.620. |
| 19.28.620 | Violations of RCW 19.28.500 through 19.28.620—Penalty. |

19.28.200 Licensing—Exemptions. No license under the provision of this chapter shall be required from any utility because of work in connection with the installation and/or maintenance of lines or wires for transmission of electricity from the source of supply to the point of contact at the premises and/or property to be supplied, or for work in installing or maintaining or repairing on the premises of customers, service connections and meters, and other apparatus or appliances used in the measurement of the consumption of electricity by customers, or for work in connection with the lighting of streets, alleys, ways, or public areas or squares, or for the work of installing, maintaining or repairing wires, apparatus or appliances used in their business, or in making or distributing electricity, upon the property owned or operated and managed by them; or for the work of installing and repairing ignition or lighting systems for motor vehicles, or as exempted in RCW 19.28.010. [1980 c 30 § 15; 1935 c 169 § 11; RRS § 8307-11.]

19.28.350 Violations of RCW 19.28.010 through 19.28.380—Penalty. Any person, firm or corporation violating any of the provisions of RCW 19.28.010 through 19.28.380 shall be deemed guilty of a misdemeanor, and shall be punishable by a fine of not less than fifty dollars, or not less than five days imprisonment or both such fine and imprisonment. Each day that any such violation shall continue shall be deemed a separate offense. [1980 c 30 § 16; 1935 c 169 § 14; RRS § 8307-14.]

19.28.370 RCW 19.28.010 through 19.28.380 inapplicable to telegraph or telephone companies exercising certain functions. The provisions of RCW 19.28.010 through 19.28.380 shall not apply to the work of installing, maintaining or repairing any and all electrical wires, apparatus, installations or equipment used or to be used by a telegraph company or a telephone company in the exercise of its functions and located outdoors or in a building or buildings used exclusively for that purpose. [1980 c 30 § 17; 1959 c 325 § 4.]

19.28.380 RCW 19.28.010 through 19.28.380 inapplicable within rights of way of state highways if equal or better standards enforced. The provisions of RCW 19.28.010 through 19.28.380 shall not apply within the rights of way of state highways, provided the Washington state department of transportation maintains and enforces an equal, higher or better standard of construction and of materials, devices, appliances and equipment than is required by RCW 19.28.010 through 19.28.380. [1980 c 30 § 18; 1965 ex.s. c 170 § 35.]

19.28.500 Definitions. As used in RCW 19.28.500 through 19.28.620, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Board of electrical examiners" means the board of electrical examiners under RCW 19.28.123;

(2) "Department" means the department of labor and industries;

(3) "Director" means director of labor and industries;

(4) "Journeyman electrician" means any person who has been issued a certificate of competency by the department of labor and industries as provided in this chapter for the installation of electrical equipment for light, heat, or power; and

(5) "Specialty electrician" means anyone who has been issued a specialty certificate of competency by the department to maintain or install specific kinds of electrical equipment or apparatus which the department shall define by rule. [1980 c 30 § 1.]

19.28.510 Certificate of competency required—Electrical training certificate. (1) No person shall engage in the trade of maintaining or installing electrical equipment or apparatus for light, heat, or power without having a current journeyman electrician certificate of competency or a current specialty electrician certificate of competency issued by the department in accordance with this chapter.

(2) A person who is indentured in an approved apprentice program under chapter 49.04 RCW for the electrical construction trade or who is learning the electrical construction trade, may maintain or install electrical equipment or apparatus for light, heat, or power if supervised by a certified journeyman electrician or a certified specialty electrician. All apprentices and individuals learning the electrical construction trade shall obtain and be issued an electrical training certificate from the department. The certificate shall authorize the holder to learn the trade of an electrician while under

the direct supervision of a journeyman electrician or a specialty electrician working in his specialty. The holder of the certificate shall renew the certificate annually. At the time of renewal, the holder shall provide the department with an accurate list of the holders' employers in the electrical industry for the previous year and the number of hours worked for each employer. An annual fee of five dollars shall be charged for the issuance or renewal of the certificate. Apprentices or individuals learning the electrical construction trade shall have their electrical training certificate in their possession at all times that they are performing electrical work. They shall show the certificate to an authorized representative of the department at the representative's request.

(3) Any person who has been issued an electrical training certificate under this chapter may work if that person is under supervision. Supervision shall consist of a person being on the same job site and under the control of either a journeyman electrician or an appropriate specialty electrician who has an applicable certificate of competency issued under this chapter. Either a journeyman electrician or an appropriate specialty electrician shall be on the same job site as the noncertified individual for a minimum of seventy-five percent of each working day unless otherwise provided in this chapter. The ratio of noncertified individuals to certified journeymen or specialty electricians working on a job site shall be:

(a) From September 1, 1979 through December 31, 1982, not more than three noncertified electricians working on any one job site for every certified journeyman or specialty electrician;

(b) Effective January 1, 1983, not more than two noncertified individuals working on any one job site for every specialty electrician or journeyman electrician working as a specialty electrician;

(c) Effective January 1, 1983, not more than one noncertified individual working on any one job site for every certified journeyman electrician.

The ratio requirements do not apply to a trade school program in the electrical construction trade established during 1946.

An individual with a current training certificate and who has successfully completed or is currently enrolled in an approved apprenticeship program or in a technical school program in the electrical construction trade in a school approved by the commission for vocational education, may work without direct on-site supervision during the last six months of meeting the practical experience requirements of this chapter. [1980 c 30 § 2.]

19.28.520 Application for certificate of competency. 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 met the qualifications required under RCW 19.28.530, as now or hereafter amended. [1980 c 30 § 3.]

19.28.530 Certificate of competency—Eligibility for examination—Rules. Upon receipt of the application, the department 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 for a journeyman certificate the applicant must have worked under the supervision of a journeyman electrician certified under this chapter for a minimum of four years employed full time or have successfully completed an approved apprenticeship program under chapter 49.04 RCW for the electrical construction trade. To be eligible to take the examination to become a specialty electrician the applicant shall have worked under the supervision of the appropriate specialty electrician certified under this chapter for a minimum of two years employed full time, or have successfully completed an approved apprenticeship program under chapter 49.04 RCW for the applicant's specialty in the electrical construction trade. Any applicant who has successfully completed a two-year technical school program in the electrical construction trade in a school that is approved by the commission for vocational education may substitute up to two years of the technical school program for two years of work experience under a journeyman electrician: *Provided*, That the additional work experience shall run prior to or after the completion of the technical school program. Any applicant who has received training in the electrical construction trade, as defined by this chapter, in the armed service of the United States may be eligible to take the examination for the certificate of competency. Any applicant who is a graduate of a trade school program in electrical construction that was established during 1946, shall be eligible to take the examination for the certificate of competency. No other requirement for eligibility may be imposed. The department 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 department shall consult with the board of electrical examiners. Upon determination that the applicant is eligible to take the examination, the department shall so notify the applicant, indicating the time and place for taking the same. [1980 c 30 § 4.]

19.28.540 Examinations—Contents—Times—Fees—Certification of results. The department, in coordination with the board of electrical examiners, shall prepare an examination to be administered to applicants for certificates of competency. 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 electrician or specialty electrician; and

(2) Whether the applicant is sufficiently familiar with the applicable electrical codes and the administrative rules of the department pertaining to electrical installations and electricians.

The department shall administer at least four times annually the examination to persons eligible to take the

same under RCW 19.28.530. All applicants shall, before taking such examination, pay to the department a fifteen 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.

The department shall certify the results of said examination, upon such terms and after such period of time as the department, in cooperation with the board of electrical examiners, shall deem necessary and proper. [1980 c 30 § 5.]

19.28.550 Certificate of competency—Issuance—Renewal—Effect. The department shall issue a certificate of competency to all applicants who have passed the examination provided in RCW 19.28.540, and who have otherwise complied with RCW 19.28.500 through 19.28.620 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 fifteen dollars shall be assessed for each certificate: *Provided, however*, That any person, firm or corporation, licensed and bonded under RCW 19.28.120 shall not be assessed and shall not be required to pay the annual renewal fee for certification of competency.

The certificates of competency or permits provided for in this chapter shall grant the holder the right to engage in the work of electrical installation as a journeyman electrician or specialty electrician in accordance with its provisions throughout the state and within any of its political subdivisions without additional proof of competency or any other license or permit or fee to engage in such work. [1980 c 30 § 6.]

19.28.560 Persons engaged in trade or business on July 16, 1973. No examination shall be required of any applicant for a certificate of competency who, on July 16, 1973, was engaged in a bona fide business or trade as a journeyman electrician in the state of Washington. Applicants qualifying under this section shall be issued a certificate by the department upon making an application as provided in RCW 19.28.520 and paying the fee required under RCW 19.28.540: *Provided*, That no applicant under this section shall be required to furnish such evidence as required by RCW 19.28.520. [1980 c 30 § 7.]

19.28.570 Temporary permits. The department is authorized to grant and issue temporary permits in lieu of certificates of competency whenever an electrician coming into the state of Washington from another state requests the department for a temporary permit to engage in the business and trade of electrical installation as an electrician during the period of time between filing of an application for a certificate as provided in RCW 19.28.520 and taking the examination provided for in RCW 19.28.540. The department is authorized to enter into reciprocal agreements with other states providing

for the acceptance of such states' journeyman certificate of competency or its equivalent when such states requirements are equal to the standards set by this chapter. No temporary permit shall be issued to:

(1) Any person who has failed to pass the examination for a certificate of competency, except that any person who has failed the examination for competency under this section shall be entitled to continue to work under a temporary permit for ninety days if the person is enrolled in a journeyman electrician refresher course and shows evidence to the department that he or she has not missed any classes. The person, after completing the journeyman electrician refresher course, shall be eligible to retake the examination for competency at the next scheduled time.

(2) Any applicant under this section who has not furnished the department with such evidence required under RCW 19.28.520.

(3) To any apprentice electrician. [1980 c 30 § 8.]

19.28.580 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 business and trade of electrical installations as a journeyman electrician or specialty electrician;

(c) The holder thereof has violated any of the provisions of RCW 19.28.500 through 19.28.620 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 board of electrical examiners. 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 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. [1980 c 30 § 9.]

19.28.590 Board of electrical examiners—Duties under RCW 19.28.500 through 19.28.620. The board of electrical examiners shall carry out all the functions and duties enumerated in RCW 19.28.500 through 19.28.620, as well as generally advise the department on all matters relative to RCW 19.28.500 through 19.28.620. [1980 c 30 § 10.]

19.28.600 Powers and duties of director. The director may promulgate rules, make specific decisions, orders, and rulings, including therein demands and findings, and take other necessary action for the implementation and enforcement of his duties under RCW

19.28.500 through 19.28.620: *Provided*, That in the administration of RCW 19.28.500 through 19.28.620 the director shall not enter any controversy arising over work assignments with respect to the trades involved in the construction industry. [1980 c 30 § 11.]

19.28.610 Exemptions from RCW 19.28.500 through 19.28.620. Nothing in RCW 19.28.500 through 19.28.620 shall be construed to require that a person obtain a license or a certified electrician in order to do electrical work at his residence or farm or place of business or on other property owned by him: *Provided, however*, That nothing in RCW 19.28.500 through 19.28.620 shall be intended to derogate from or dispense with the requirements of any valid electrical code enacted by a political subdivision of the state, except that no code shall require the holder of a certificate of competency to demonstrate any additional proof of competency or obtain any other license or pay any fee in order to engage in the trade of electrical installation: *And provided further*, That RCW 19.28.500 through 19.28.620 shall not apply to common carriers subject to Part I of the Interstate Commerce Act, nor to their officers and employees: *And provided further*, That nothing in RCW 19.28.500 through 19.28.620 shall be deemed to apply to the installation or maintenance of communications or electronic circuits, wires and apparatus, radio or television stations; nor to any electrical utility or its employees, in the installations and maintenance of electrical wiring, circuits, apparatus, and equipment by or for such utility, or comprising a part of its plants, lines or systems. The licensing provisions of RCW 19.28.500 through 19.28.620 shall not apply to persons making electrical installations on their own property or to regularly employed employees working on the premises of their employer: *And provided further*, That nothing in RCW 19.28.500 through 19.28.620 shall be construed to restrict the right of any householder to assist or receive assistance from a friend, neighbor, relative or other person when none of the individuals doing such electrical installation hold themselves out as engaged in the trade or business of electrical installations. [1980 c 30 § 12.]

19.28.620 Violations of RCW 19.28.500 through 19.28.620—Penalty. (1) It is unlawful for any person, firm, or corporation to employ an individual for purposes of RCW 19.28.500 through 19.28.620 who has not been issued a certificate of competency or a learning certificate. It is unlawful for any individual to maintain or install any electrical equipment or apparatus for light, heat, or power without having in his or her possession a certificate of competency or a learning certificate under RCW 19.28.500 through 19.28.620. Any person, firm, or corporation found in violation of RCW 19.28.500 through 19.28.620 shall be punished by a fine of not less than fifty dollars. Any equipment or apparatus maintained or installed by any person who does not possess a certificate of competency under RCW 19.28.500 through 19.28.620 shall not receive a safe wiring label and electrical service shall not be connected or maintained to operate the equipment or apparatus. Each day

that a person, firm, or corporation violates the provisions of RCW 19.28.500 through 19.28.620 is a separate violation.

(2) A civil penalty shall be collected in a civil action brought by the attorney general or the prosecuting attorney of the county wherein the alleged violation arose at the request of the department if any of the provisions of RCW 19.28.500 through 19.28.620 or any rules promulgated under RCW 19.28.500 through 19.28.620 are violated. [1980 c 30 § 13.]

Chapter 19.100

FRANCHISE INVESTMENT PROTECTION

Sections

| | |
|------------|---|
| 19.100.180 | Relation between franchisor and franchisee—Rights and prohibitions. |
| 19.100.210 | Violations—Injunctions—Assurance of discontinuance—Civil and criminal penalties—Chapter nonexclusive. |

19.100.180 Relation between franchisor and franchisee—Rights and prohibitions. Without limiting the other provisions of this chapter, the following specific rights and prohibitions shall govern the relation between the franchisor or subfranchisor and the franchisees:

(1) The parties shall deal with each other in good faith.

(2) For the purposes of this chapter and without limiting its general application, it shall be an unfair or deceptive act or practice or an unfair method of competition and therefore unlawful and a violation of this chapter for any person to:

(a) Restrict or inhibit the right of the franchisees to join an association of franchisees.

(b) Require a franchisee to purchase or lease goods or services of the franchisor or from approved sources of supply unless and to the extent that the franchisor satisfies the burden of proving that such restrictive purchasing agreements are reasonably necessary for a lawful purpose justified on business grounds, and do not substantially affect competition: *Provided*, That this provision shall not apply to the initial inventory of the franchise. In determining whether a requirement to purchase or lease goods or services constitutes an unfair or deceptive act or practice or an unfair method of competition the courts shall be guided by the decisions of the courts of the United States interpreting and applying the anti-trust laws of the United States.

(c) Discriminate between franchisees in the charges offered or made for royalties, goods, services, equipment, rentals, advertising services, or in any other business dealing, unless and to the extent that the franchisor satisfies the burden of proving that any classification of or discrimination between franchisees is reasonable, is based on franchises granted at materially different times and such discrimination is reasonably related to such difference in time or on other proper and justifiable distinctions considering the purposes of this chapter, and is not arbitrary.

(d) Sell, rent, or offer to sell to a franchisee any product or service for more than a fair and reasonable price.

(e) Obtain money, goods, services, anything of value, or any other benefit from any other person with whom the franchisee does business on account of such business unless such benefit is disclosed to the franchisee.

(f) If the franchise provides that the franchisee has an exclusive territory, which exclusive territory shall be specified in the franchise agreement, for the franchisor or subfranchisor to compete with the franchisee in an exclusive territory or to grant competitive franchises in the exclusive territory area previously granted to another franchisee.

(g) Require franchisee to assent to a release, assignment, novation, or waiver which would relieve any person from liability imposed by this chapter.

(h) Impose on a franchisee by contract, rule, or regulation, whether written or oral, any standard of conduct unless the person so doing can sustain the burden of proving such to be reasonable and necessary.

(i) Refuse to renew a franchise without fairly compensating the franchisee for the fair market value, at the time of expiration of the franchise, of the franchisee's inventory, supplies, equipment, and furnishings purchased from the franchisor, and good will, exclusive of personalized materials which have no value to the franchisor, and inventory, supplies, equipment and furnishings not reasonably required in the conduct of the franchise business: *Provided*, That compensation need not be made to a franchisee for good will if (i) the franchisee has been given one year's notice of nonrenewal and (ii) the franchisor agrees in writing not to enforce any covenant which restrains the franchisee from competing with the franchisor: *Provided further*, That a franchisor may offset against amounts owed to a franchisee under this subsection any amounts owed by such franchisee to the franchisor.

(j) Terminate a franchise prior to the expiration of its term except for good cause. Good cause shall include, without limitation, the failure of the franchisee to comply with lawful material provisions of the franchise or other agreement between the franchisor and the franchisee and to cure such default after being given written notice thereof and a reasonable opportunity, which in no event need be more than thirty days, to cure such default, or if such default cannot reasonably be cured within thirty days, the failure of the franchisee to initiate within thirty days substantial and continuing action to cure such default: *Provided*, That after three wilful and material breaches of the same term of the franchise agreement occurring within a twelve-month period, for which the franchisee has been given notice and an opportunity to cure as provided in this subsection, the franchisor may terminate the agreement upon any subsequent wilful and material breach of the same term within the twelve-month period without providing notice or opportunity to cure: *Provided further*, That a franchisor may terminate a franchise without giving prior notice or opportunity to cure a default if the franchisee: (i) Is adjudicated a bankrupt or insolvent; (ii) makes an

assignment for the benefit of creditors or similar disposition of the assets of the franchise business; (iii) voluntarily abandons the franchise business; or (iv) is convicted of or pleads guilty or no contest to a charge of violating any law relating to the franchise business. Upon termination for good cause, the franchisor shall purchase from the franchisee at a fair market value at the time of termination, the franchisee's inventory and supplies, exclusive of (i) personalized materials which have no value to the franchisor; (ii) inventory and supplies not reasonably required in the conduct of the franchise business; and (iii), if the franchisee is to retain control of the premises of the franchise business, any inventory and supplies not purchased from the franchisor or on his express requirement: *Provided*, That a franchisor may offset against amounts owed to a franchisee under this subsection any amounts owed by such franchisee to the franchisor. [1980 c 63 § 1; 1973 1st ex.s. c 33 § 4; 1972 ex.s. c 116 § 10; 1971 ex.s. c 252 § 18.]

19.100.210 Violations—Injunctions—Assurance of discontinuance—Civil and criminal penalties—Chapter nonexclusive. (1) The attorney general or director may bring an action in the name of the state against any person to restrain and prevent the doing of any act herein prohibited or declared to be unlawful. Upon a proper showing, a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The prevailing party may in the discretion of the court recover the costs of such action including a reasonable attorneys' fee.

(2) Every person who shall violate the terms of any injunction issued as in this chapter provided shall forfeit and pay a civil penalty of not more than twenty-five thousand dollars.

Every person who violates RCW 19.100.020, 19.100.080, 19.100.150 and 19.100.170 as now or hereafter amended shall forfeit a civil penalty of not more than two thousand dollars for each violation.

For the purpose of this section the superior court issuing an injunction shall retain jurisdiction and the cause shall be continued and in such cases the attorney general or director acting in the name of the state may petition for the recovery of civil penalties.

In the enforcement of this chapter, the attorney general or director may accept an assurance of discontinuance with the provisions of this chapter from any person deemed by the attorney general or director in violation hereof. Any such assurance shall be in writing, shall state that the person giving such assurance does not admit to any violation of this chapter or to any facts alleged by the attorney general or director, and shall be filed with and subject to the approval of the superior court of the county in which the alleged violator resides or has his principal place of business, or in Thurston county. Proof of failure to comply with the assurance of discontinuance shall be prima facie evidence of a violation of this chapter.

(3) Any person who wilfully violates any provision of this chapter or who wilfully violates any rule adopted or

order issued under this chapter shall upon conviction be fined not more than five thousand dollars or imprisoned for not more than ten years or both, but no person may be imprisoned for the violation of any rule or order if he proves that he had no knowledge of the rule or order. No indictment or information may be returned under this chapter more than five years after the alleged violation.

(4) Nothing in this chapter limits the power of the state to punish any person for any conduct which constitutes a crime by statute or at common law. [1980 c 63 § 2; 1979 ex.s. c 13 § 1; 1972 ex.s. c 116 § 13; 1971 ex.s. c 252 § 21.]

Title 23A

WASHINGTON BUSINESS CORPORATION ACT

Chapters

- 23A.08 Substantive provisions.
- 23A.28 Dissolution.
- 23A.32 Foreign corporations.
- 23A.40 Fees and charges.

Chapter 23A.08

SUBSTANTIVE PROVISIONS

Sections

| | |
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| 23A.08.025 | Indemnification of directors and officers. |
| 23A.08.255 | Shareholder presence—Conference calls. |
| 23A.08.330 | Voting trust—Agreements. |
| 23A.08.340 | Board of directors. |
| 23A.08.343 | Duties of directors. |
| 23A.08.395 | Dissent by directors. |
| 23A.08.400 | Executive and other committees. |
| 23A.08.450 | Liability of directors in certain cases. |
| 23A.08.480 | Initial and annual report—Contents—Filing—Compliance—Violation—Penalty. (Effective January 1, 1981.) |

23A.08.025 Indemnification of directors and officers.

(1) As used in this section:

(a) "Director" means any person who is or was a director of the corporation and any person who, while a director of the corporation, is or was serving at the request of the corporation as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, other enterprise, or employee benefit plan.

(b) "Corporation" includes any domestic or foreign predecessor entity of the corporation in a merger, consolidation, or other transaction in which the predecessor's existence ceased upon consummation of such transaction.

(c) "Expenses" includes attorneys' fees.

(d) "Official capacity" means: (i) When used with respect to a director, the office of director in the corporation, and (ii) when used with respect to a person other than a director as contemplated in subsection (10) of this section, the elective or appointive office in the corporation held by the officer or the employment or

agency relationship undertaken by the employee or agent in behalf of the corporation, but in each case does not include service for any other foreign or domestic corporation or any partnership, joint venture, trust, other enterprise, or employee benefit plan.

(e) "Party" includes a person who was, is, or is threatened to be, made a named defendant or respondent in a proceeding.

(f) "Proceeding" means any threatened, pending, or completed action, suit, or proceeding whether civil, criminal, administrative, or investigative.

(2) A corporation shall have power to indemnify any person made a party to any proceeding (other than a proceeding referred to in subsection (3) of this section) by reason of the fact that he is or was a director against judgments, penalties, fines, settlements and reasonable expenses actually incurred by him in connection with such proceeding if:

(a) He conducted himself in good faith, and: (i) In the case of conduct in his own official capacity with the corporation, he reasonably believed his conduct to be in the corporation's best interests, or (ii) in all other cases, he reasonably believed his conduct to be at least not opposed to the corporation's best interests; and

(b) In the case of any criminal proceeding, he had no reasonable cause to believe his conduct was unlawful.

The termination of any proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself be determinative that the person did not meet the requisite standard of conduct set forth in this subsection.

(3) A corporation shall have power to indemnify any person made a party to any proceeding by or in the right of the corporation by reason of the fact that he is or was a director against reasonable expenses actually incurred by him in connection with such proceeding if he conducted himself in good faith, and:

(a) In the case of conduct in his official capacity with the corporation, he reasonably believed his conduct to be in its best interests; or

(b) In all other cases, he reasonably believed his conduct to be at least not opposed to its best interests; *Provided*, That no indemnification shall be made pursuant to this subsection in respect of any proceeding in which such person shall have been adjudged to be liable to the corporation.

(4) A director shall not be indemnified under subsection (2) or (3) of this section in respect of any proceeding charging improper personal benefit to him, whether or not involving action in his official capacity, in which he shall have been adjudged to be liable on the basis that personal benefit was improperly received by him.

(5) Unless otherwise limited by the articles of incorporation:

(a) A director who has been wholly successful, on the merits or otherwise, in the defense of any proceeding referred to in subsection (2) or (3) of this section shall be indemnified against reasonable expenses incurred by him in connection with the proceeding; and

(b) A court of appropriate jurisdiction, upon application of a director and such notice as the court shall require shall have authority to order indemnification in the following circumstances:

(i) If the court determines a director is entitled to reimbursement under (a) of this subsection, the court shall order indemnification, in which case the director shall be entitled to recover the expenses of securing such reimbursement; or

(ii) If the court determines that the director is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not he has met the standards of conduct set forth in subsection (2) or (3) of this section or has been adjudged liable under subsection (4) of this section, the court may order such indemnification as the court shall deem proper, except that indemnification with respect to any proceeding referred to in subsection (3) of this section and with respect to any proceeding in which liability shall have been adjudged pursuant to subsection (4) of this section shall be limited to expenses.

A court of appropriate jurisdiction may be the same court in which the proceeding involving the director's liability took place.

(6) No indemnification under subsection (2) or (3) of this section shall be made by the corporation unless authorized in the specific case after a determination that indemnification of the director is permissible in the circumstances because he has met the standard of conduct set forth in the applicable subsection. Such determination shall be made:

(a) By the board of directors by a majority vote of a quorum consisting of directors not at the time parties to such proceeding; or

(b) If such a quorum cannot be obtained, then by a majority vote of a committee of the board, duly designated to act in the matter by a majority vote of the full board (in which designation directors who are parties may participate), consisting solely of two or more directors not at the time parties to such proceeding; or

(c) In a written opinion by legal counsel other than an attorney, or a firm having associated with it an attorney, who has been retained by or who has performed services within the past three years for the corporation or any party to be indemnified, selected by the board of directors or a committee thereof by vote as set forth in (a) or (b) of this subsection, or if the requisite quorum of the full board cannot be obtained therefor and such committee cannot be established, by a majority vote of the full board (in which selection directors who are parties may participate); or

(d) By the shareholders.

Authorization of indemnification and determination as to reasonableness of expenses shall be made in the same manner as the determination that indemnification is permissible, except that if the determination that indemnification is permissible is made by such legal counsel, authorization of indemnification and determination as to reasonableness of expenses shall be made in a manner specified in (c) of this subsection for the selection of such counsel. Shares held by directors who are

parties to the proceeding shall not be voted on the subject matter under this subsection.

(7) Reasonable expenses incurred by a director who is party to a proceeding may be paid or reimbursed by the corporation in advance of the final disposition of such proceeding:

(a) After a determination, made in the manner specified by subsection (6) of this section, that the information then known to those making the determination (without undertaking further investigation for purposes thereof) does not establish that indemnification would not be permissible under subsection (2) or (3) of this section; and

(b) Upon receipt by the corporation of:

(i) A written affirmation by the director of his good faith belief that he has met the standard of conduct necessary for indemnification by the corporation as authorized in this section; and

(ii) A written undertaking by or on behalf of the director to repay such amount if it shall ultimately be determined that he has not met such standard of conduct.

The undertaking required by (b)(ii) of this subsection shall be an unlimited general obligation of the director but need not be secured and may be accepted without reference to financial ability to make the repayment. Payments under this subsection may be authorized in the manner specified in subsection (6) of this section.

(8) No provision for the corporation to indemnify a director who is made a party to a proceeding, whether contained in the articles of incorporation, the bylaws, a resolution of shareholders or directors, an agreement, or otherwise (except as contemplated by subsection (11) of this section), shall be valid unless consistent with this section or, to the extent that indemnity hereunder is limited by the articles of incorporation, consistent therewith. Nothing contained in this section shall limit the corporation's ability to reimburse expenses incurred by a director in connection with his appearance as a witness in a proceeding at a time when he has not been made a named defendant or respondent in the proceeding.

(9) For purposes of this section, the corporation shall be deemed to have requested a director to serve an employee benefit plan where the performance by him of his duties to the corporation also imposes duties on, or otherwise involves services by, him to the plan or participants or beneficiaries of the plan; excise taxes assessed on a director with respect to an employee benefit plan pursuant to applicable law shall be deemed "fines"; and action taken or omitted by him with respect to an employee benefit plan in the performance of his duties for a purpose reasonably believed by him to be in the interest of the participants and beneficiaries of the plan shall be deemed to be for a purpose which is not opposed to the best interests of the corporation.

(10) Unless otherwise limited by the articles of incorporation:

(a) An officer of the corporation shall be indemnified as and to the extent provided in subsection (5) of this section for a director and shall be entitled to seek indemnification pursuant to subsection (5) of this section to the same extent as a director;

(b) A corporation shall have the power to provide indemnification including advances of expenses, to an officer, employee, or agent of the corporation to the same extent that it may indemnify directors pursuant to this section except that subsection (12) of this section shall not apply to any person other than a director; and

(c) A corporation, in addition, shall have the power to indemnify an officer who is not a director, as well as employees and agents of the corporation who are not directors, to such further extent, consistent with law, as may be provided by its articles of incorporation, bylaws, general or specific action of its board of directors, or contract.

(11) A corporation shall have power to purchase and maintain insurance on behalf of any person who is, or was a director, officer, employee, or agent of the corporation or is or was serving at the request of the corporation as an officer, employee or agent of another corporation, partnership, joint venture, trust, other enterprise, or employee benefit plan against any liability asserted against him and incurred by him in any such capacity or arising out of his status as such, whether or not the corporation would have the power to indemnify him against such liability under the provisions of this section.

(12) Any indemnification of a director in accordance with this section, including any payment or reimbursement of expenses, shall be reported to the shareholders with the notice of the next shareholders' meeting or prior thereto in a written report containing a brief description of the proceedings involving the director being indemnified and the nature and extent of such indemnification. [1980 c 99 § 1; 1979 c 16 § 4; 1969 ex.s. c 58 § 2.]

23A.08.255 Shareholder presence—Conference calls. If the articles of incorporation or bylaws so provide, shareholders may participate in a meeting of the shareholders by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time, and participation by such means shall constitute presence in person at a meeting. [1980 c 99 § 2.]

23A.08.330 Voting trust—Agreements. Any number of shareholders of a corporation may create a voting trust for the purpose of conferring upon a trustee or trustees the right to vote or otherwise represent their shares, for a period of not to exceed ten years, by entering into a written voting trust agreement specifying the terms and conditions of the voting trust, by depositing a counterpart of the agreement with the corporation at its registered office, and by transferring their shares to such trustee or trustees for the purposes of the agreement. The certificates of shares so transferred shall be surrendered and canceled, and new certificates therefor issued to such person or persons, as such trustee or trustees, in which new certificates, it shall appear that they are issued pursuant to said agreement. In the entry of transfer on the books of the corporation it shall also be noted that the transfer is made pursuant to said agreement.

The trustee or trustees shall execute and deliver to the transferors voting trust certificates. Such voting trust certificates shall be transferable in the same manner and with the same effect as certificates of stock under the laws of this state.

The counterpart of the voting trust agreement deposited with the corporation shall be subject to the same right of examination by a shareholder of the corporation, in person or by agent or attorney, as are the books and records of the corporation, and shall be subject to examination by any holder of a beneficial interest in the voting trust, either in person or by agent or attorney, at any reasonable time for any proper purpose.

At any time within six months before the expiration of such voting trust agreement as originally fixed or extended under this paragraph, one or more holders of voting trust certificates may, by agreement in writing, extend the duration of such voting trust agreement, nominating the same or substitute trustee or trustees, for an additional period not exceeding ten years. Such extension agreement shall not affect the rights or obligations of persons not parties thereto and shall in every respect comply with and be subject to all the provisions of this title applicable to the original voting trust agreement.

Agreements among shareholders regarding the voting of their shares shall be valid and enforceable in accordance with their terms. Such agreements shall not be subject to the provisions of this section regarding voting trusts. [1980 c 99 § 3; 1965 c 53 § 36.]

23A.08.340 Board of directors. All corporate powers shall be exercised by or under authority of, and the business and affairs of a corporation shall be managed under the direction of, a board of directors except as may be otherwise provided in this title or the articles of incorporation. If any such provision is made in the articles of incorporation, the powers and duties conferred or imposed upon the board of directors by this title shall be exercised or performed to such extent and by such person or persons as shall be provided in the articles of incorporation. Directors need not be residents of this state or shareholders of the corporation unless the articles of incorporation or bylaws so require. The articles of incorporation or bylaws may prescribe other qualifications for directors. The board of directors shall have authority to fix the compensation of directors unless otherwise provided in the articles of incorporation. [1980 c 99 § 4; 1965 c 53 § 37.]

23A.08.343 Duties of directors. A director shall perform the duties of a director, including the duties as a member of any committee of the board upon which the director may serve, in good faith, in a manner such director believes to be in the best interests of the corporation, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

In performing the duties of a director, a director shall be entitled to rely on information, opinions, reports, or

statements, including financial statements and other financial data, in each case prepared or presented by:

(1) One or more officers or employees of the corporation whom the director believes to be reliable and competent in the matter presented;

(2) Counsel, public accountants, or other persons as to matters which the director believes to be within such person's professional or expert competence; or

(3) A committee of the board upon which the director does not serve, duly designated in accordance with a provision in the articles of incorporation or bylaws, as to matters within its designated authority, which committee the director believes to merit confidence; so long as, in any such case, the director acts in good faith, after reasonable inquiry when the need therefor is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted. [1980 c 99 § 5.]

23A.08.395 Dissent by directors. A director of a corporation who is present at a meeting of its board of directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the secretary of the corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action. [1980 c 99 § 6.]

23A.08.400 Executive and other committees. If the articles of incorporation or the bylaws so provide, the board of directors, by resolution adopted by a majority of the full board of directors, may designate from among its members an executive committee and one or more other committees each of which, to the extent provided in such resolution or in the articles of incorporation or the bylaws of the corporation, shall have and may exercise all the authority of the board of directors, except that no such committee shall have the authority to: (1) Declare dividends or distributions, except at a rate or in periodic amount determined by the board of directors, (2) approve or recommend to shareholders actions or proposals required by this title to be approved by shareholders, (3) fill vacancies on the board of directors or any committee thereof, (4) amend the bylaws, (5) authorize or approve the reacquisition of shares unless pursuant to general formula or method specified by the board of directors, (6) fix compensation of any director for serving on the board of directors or on any committee, (7) approve a plan of merger, consolidation, or exchange of shares not requiring shareholder approval, (8) reduce earned or capital surplus, or (9) appoint other committees of the board of directors or the members thereof. [1980 c 99 § 7; 1965 c 53 § 43.]

23A.08.450 Liability of directors in certain cases. In addition to any other liabilities imposed by law upon directors of a corporation:

(1) Directors of a corporation who vote for or assent to the declaration of any dividend or other distribution of the assets of a corporation to its shareholders contrary to the provisions of this title or contrary to any restrictions contained in the articles of incorporation, shall be jointly and severally liable to the corporation for the amount of such dividend which is paid or the value of such assets which are distributed in excess of the amount of such dividend or distribution which could have been paid or distributed without a violation of the provisions of this title or the restrictions in the articles of incorporation.

(2) Directors of a corporation who vote for or assent to the purchase of its own shares contrary to the provisions of this title shall be jointly and severally liable to the corporation for the amount of consideration paid for such shares which is in excess of the maximum amount which could have been paid therefor without a violation of the provisions of this title.

(3) The directors of a corporation who vote for or assent to any distribution of assets of a corporation to its shareholders during the liquidation of the corporation without the payment and discharge of, or making adequate provision for, all known debts, obligations, and liabilities of the corporation shall be jointly and severally liable to the corporation for the value of such assets which are distributed, to the extent that such debts, obligations, and liabilities of the corporation are not thereafter paid and discharged.

(4) The directors of a corporation who vote for or assent to the making of a loan to an officer or director of the corporation, or the making of any loan secured by shares of the corporation, shall be jointly and severally liable to the corporation for the amount of such loan until the repayment thereof, unless approved by the shareholders as provided in RCW 23A.08.440.

Any director against whom a claim shall be asserted under or pursuant to this section for the payment of a dividend or other distribution of assets of a corporation and who shall be held liable thereon, shall be entitled to contribution from the shareholders who accepted or received any such dividend or assets, knowing such dividend or distribution to have been made in violation of this title, in proportion to the amounts received by them respectively.

Any director against whom a claim shall be asserted under or pursuant to this section shall be entitled to contribution from the other directors who voted for or assented to the action upon which the claim is asserted. [1980 c 99 § 8; 1979 c 16 § 24; 1965 c 53 § 48.]

23A.08.480 Initial and annual report—Contents—Filing—Compliance—Violation—Penalty. (Effective January 1, 1981.) (1)(a) Every corporation organized under this title on or after January 1, 1981, shall file an initial report with the secretary of state containing the information described in subsections (2)(a) through (2)(e) of this section.

(b) Every foreign corporation authorized to do business in the state of Washington shall, at the time it files its application for a certificate of authority, file an initial

report with the secretary of state containing the information described in subsections (2)(a) through (2)(e) of this section.

(2) In addition, every corporation heretofore or hereafter organized under the laws of the territory or state of Washington and every 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 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 description of the business, if any, which the corporation is conducting, or, in the case of a foreign corporation, which the corporation is conducting in this state.

(d) The address of the principal place of business of the corporation in the state.

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

(3) Every report required by this section shall be executed by an officer or director on behalf of the corporation except that the initial report of a domestic corporation may be executed by an incorporator. If the secretary of state finds that the annual report substantially conforms to law, he shall, when all the fees have been paid as in this title described, file the same.

(4) If any corporation shall fail to file a report required by this section, 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.

(5) If any corporation shall fail to file a report required by this section there shall become due and owing to the state of Washington the sum of twenty-five dollars if the required report is filed on or before the first of September in the year in which the report is required, or one hundred dollars if the report is not filed on or before that date, which sum shall be paid to the secretary of state. [1980 c 99 § 9; 1977 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.]

Effective date—1980 c 99: "Sections 9, 10, 12, 13, 14, 15, and 16 of this 1980 act shall take effect on January 1, 1981." [1980 c 99 § 17.] Section 9 consists of the amendments to RCW 23A.08.480, section 10 is codified as RCW 23A.28.125, sections 12 and 13 consist of the amendments to RCW 23A.32.160 and 23A.40.020, section 14 is codified as RCW 23A.40.035, section 15 consists of the amendments to RCW 23A.40.070, and section 16 consists of the repeal of RCW 23A.40.075.

Chapter 23A.28 DISSOLUTION

Sections

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| 23A.28.125 | Involuntary dissolution for failure to pay annual license fee or file annual report. (Effective January 1, 1981.) |
| 23A.28.250 | Survival of remedy after dissolution. |

23A.28.125 Involuntary dissolution for failure to pay annual license fee or file annual report. (Effective January 1, 1981.) (1) If a domestic corporation fails for a period of three consecutive years either to pay the annual license fee required by RCW 23A.40.060, or to file the annual report required by RCW 23A.08.480, it shall be dissolved and cease to exist on the second anniversary of the date of its first failure either to file an annual report or to pay an annual license fee. The secretary of state shall remove the names of all corporations so dissolved from the list of active corporations.

(2) Prior to such dissolution the corporation's existence will not be affected nor will any of its rights, duties and obligations be impaired, except as otherwise provided in RCW 23A.44.120. [1980 c 99 § 10.]

Effective date—1980 c 99: See note following RCW 23A.08.480.

23A.28.250 Survival of remedy after dissolution. The dissolution of a corporation either (1) by the issuance of a certificate of dissolution by the secretary of state, or (2) by a decree of court, or (3) by expiration of its period of duration, or (4) by reason of its failure for three consecutive years to pay its annual license fee and file its annual report as provided in RCW 23A.28.125, shall not take away or impair any remedy available to or against such corporation, its directors, officers, or shareholders, for any right or claim existing, or any liability incurred, prior to such dissolution if action or other proceeding thereon is commenced within two years after the date of such dissolution. The directors of any such corporation shall hold title to the property of the corporation as trustees for the benefit of its creditors and shareholders. Any such action or proceeding by or against the corporation may be prosecuted or defended by the corporation in its corporate name. The shareholders, directors and officers shall have power to take such corporate or other action as shall be appropriate to protect such remedy, right or claim. If such corporation was dissolved by the expiration of its period of duration, such corporation may amend its articles of incorporation at any time during such period of two years so as to extend its period of duration. [1980 c 99 § 11; 1965 c 53 § 108.]

Chapter 23A.32 FOREIGN CORPORATIONS

Sections

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| 23A.32.160 | Revocation of certificate of authority. (Effective January 1, 1981.) |
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23A.32.160 Revocation of certificate of authority. (Effective January 1, 1981.) (1) The certificate of authority of a foreign corporation to transact business in this state may be revoked by the secretary of state upon the conditions prescribed in this section when:

(a) The corporation has failed to pay any fees, or penalties prescribed by this title when they have become due and payable; or

(b) The corporation has failed to file any annual report prescribed by this title; or

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

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

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

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

(2) Not less than thirty nor more than ninety days prior to July 1 of each year the secretary of state shall mail to each foreign corporation qualified to do business in this state, at its registered office within the state, by first class mail, a notice that its annual license fee must be paid and its annual report must be filed as required by this title, and stating that if it shall fail to pay its annual license fee or to file its annual report its certificate of authority to transact business within this state may be revoked. Failure of the secretary of state to mail any such notice shall not relieve a corporation from its obligations to pay the annual license fees and to file the annual reports required by this title.

(3) No certificate of authority of a foreign corporation shall be revoked by the secretary of state unless (a) he shall have given the corporation not less than sixty days notice thereof by mail addressed to its registered office in this state, and (b) the corporation shall fail prior to revocation to pay such fees or penalties, or file the required statement of change of registered agent or registered office, or file such articles of amendment or articles of merger, or correct such misrepresentation. [1980 c 99 § 12; 1965 c 53 § 124.]

Effective date—1980 c 99: See note following RCW 23A.08.480.

Amendment to articles of incorporation: RCW 23A.32.110.

Articles of merger: RCW 23A.32.120.

Change of registered office or registered agent: RCW 23A.32.090.

Registered office and registered agent: RCW 23A.32.080.

**Chapter 23A.40
FEES AND CHARGES**

Sections

23A.40.020 Fees for filing documents and issuing certificates. (Effective January 1, 1981.)

- 23A.40.035 Notice of due date for payment of annual license fee and filing annual report. (Effective January 1, 1981.)
- 23A.40.070 Penalty for nonpayment of annual license fees— Payment of delinquent fees. (Effective January 1, 1981.)
- 23A.40.075 Repealed. (Effective January 1, 1981.)

23A.40.020 Fees for filing documents and issuing certificates. (Effective January 1, 1981.) The secretary of state shall charge and collect for:

- (1) Filing articles of amendment and issuing a certificate of amendment, ten dollars;
- (2) Filing restated articles of incorporation, ten dollars;
- (3) Filing articles of merger or consolidation and issuing a certificate of merger or consolidation, fifteen dollars;
- (4) Filing an application to reserve a corporate name, ten dollars;
- (5) Filing a notice of transfer of a reserved corporate name, five dollars;
- (6) Filing a statement of change of address of registered office, revocation, resignation, change of registered agent, or any combination, of these, two dollars;
- (7) Filing a statement of the establishment of a series of shares, ten dollars;
- (8) Filing a statement of cancellation of shares, ten dollars;
- (9) Filing a statement of reduction of stated capital, ten dollars;
- (10) Filing a statement of intent to dissolve, five dollars;
- (11) Filing a statement of revocation of voluntary dissolution proceedings, five dollars;
- (12) Filing articles of dissolution, five dollars;
- (13) Filing a certificate by a foreign corporation of the appointment of an agent residing in this state, or a certificate of the revocation of the appointment of such registered agent, or filing a notice of resignation by a registered agent, two dollars;
- (14) Filing an application of a foreign corporation for a certificate of authority to transact business in this state and issuing a certificate of authority, five dollars;
- (15) Filing an application of a foreign corporation for an amended certificate of authority to transact business in this state and issuing an amended certificate of authority, five dollars;
- (16) Filing a copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to transact business in this state, ten dollars;
- (17) Filing a copy of articles of merger of a foreign corporation holding a certificate of authority to transact business in this state, fifteen dollars;
- (18) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, five dollars;
- (19) Filing an annual report, five dollars;
- (20) Filing any other statement or report, five dollars;

(21) Such other filings as are provided for by this title. [1980 c 99 § 13; 1971 ex.s. c 133 § 3; 1969 ex.s. c 83 § 3; 1967 c 190 § 7; 1965 c 53 § 135.]

Effective date—1980 c 99: See note following RCW 23A.08.480.
World fair, use of corporation fees: RCW 43.31.500 through 43.31.640.

23A.40.035 Notice of due date for payment of annual license fee and filing annual report. (Effective January 1, 1981.) Not less than thirty nor more than ninety days prior to July 1st of each year the secretary of state shall mail to each domestic corporation, at its registered office within the state, by first class mail, a notice that its annual license fee must be paid and its annual report must be filed as required by this title, and stating that if any domestic corporation shall fail for three consecutive years to pay its annual license fee or to file its annual report it shall be dissolved and cease to exist. Failure of the secretary of state to mail any such notice shall not relieve a corporation from its obligations to pay the annual license fees and to file the annual reports required by this title. [1980 c 99 § 14.]

Effective date—1980 c 99: See note following RCW 23A.08.480.

23A.40.070 Penalty for nonpayment of annual license fees—Payment of delinquent fees. (Effective January 1, 1981.) In the event any corporation, foreign or domestic, shall do business in this state without having paid its annual license fee when due, there shall become due and owing the state of Washington a penalty of twenty-five dollars and an additional license fee equivalent to one percent per month or fraction thereof computed upon each annual license fee from the date it should have been paid to the date when it is paid: *Provided*, That the minimum additional license fee due under the provisions of this section shall be ten dollars.

A corporation organized under this title may at any time prior to its dissolution as provided in RCW 23A.28.125, and a foreign corporation qualified to do business in this state may at any time prior to the revocation of its certificate of authority as provided in RCW 23A.32.160, pay to the state of Washington its current annual license fee, provided it also pays an amount equal to all previously unpaid annual license fees plus the penalty and additional license fees specified in this section. [1980 c 99 § 15; 1969 ex.s. c 92 § 3; 1965 c 53 § 140.]

Effective date—1980 c 99: See note following RCW 23A.08.480.
Doing business without a license a gross misdemeanor: RCW 9.24.040.

23A.40.075 Repealed. (Effective January 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Title 26 DOMESTIC RELATIONS

Chapters

26.12 Family court.

[1980 RCW Supp—page 38]

26.32 Adoption.

26.36 Child agencies.

Chapter 26.12 FAMILY COURT

Sections

26.12.140 Fees for filing not to be charged—Assessment of costs permitted.
26.12.220 Funding family court or family court services—Increase in marriage license fee authorized.

26.12.140 Fees for filing not to be charged—Assessment of costs permitted. No fee shall be charged by the county clerk for filing the petition: *Provided, however*, That the court may assess any costs deemed appropriate, but not to exceed one hundred fifty dollars, upon any or each party at the conclusion of the court's jurisdiction. Costs assigned and collected shall be placed in the account created in RCW 26.12.220. [1980 c 124 § 2; 1971 ex.s. c 151 § 1; 1949 c 50 § 14; Rem. Supp. 1949 § 997-43.]

26.12.220 Funding family court or family court services—Increase in marriage license fee authorized. (1) The legislative authority of any county may impose a fee in excess of that prescribed in RCW 36.18.010 for the issuance of a marriage license: *Provided*, That such fee shall not exceed eight dollars.

(2) In addition to any other funds used therefor, the governing body of any county shall use the proceeds from the fee increase authorized by this section to pay the expenses of family court under chapter 26.12 RCW. If there is no family court in the county, the legislative authority may provide such services through other county agencies or may contract with a public or private agency or person to provide such services.

(3) The county legislative authority may establish rules of eligibility for conciliation services funded under this section so long as its rules do not conflict with rules of the court adopted under chapter 26.12 RCW or any other statute.

(4) Fees collected under this section shall be collected and deposited in the same manner as other county funds are collected and deposited, and shall be maintained in a separate account to be used as provided in this section. [1980 c 124 § 1.]

Chapter 26.32 ADOPTION

Sections

26.32.030 Consent to adoption.
26.32.916 Savings—Certain actions—Time limit.

Child selling and child buying, class C felony: RCW 9A.64.030.

26.32.030 Consent to adoption. (1) Written consent to adoption must be filed with the petition for adoption, as follows:

(a) By the person to be adopted, if such person is fourteen years of age or older, but the filing of such consent shall not obviate the necessity of securing any other consent herein required;

(b) If a legal guardian has been appointed for the person of the child, then by such guardian;

(c) If the person to be adopted is a minor then by each of his or her living parents who has not had his or her parent and child relationship terminated pursuant to a court order. If the parents' written consent is obtained, the procedures specified in this chapter for voluntary termination of the parent and child relationship are not applicable. A parent may revoke his or her written consent at any time before the consent is accepted by the court; and

(d) If the person to be adopted is a minor and has been permanently committed upon due notice to his or her parents by any court of general jurisdiction to an approved agency, then by such approved agency.

(2) The written consent shall be acknowledged before a notary public and filed with the petition or at all events before any action is taken by the court in such proceeding. Such consent shall recite that it is given subject to the approval of the court to be requested in an adoption proceeding and to have no force or effect until such court has approved the same. Such consent shall also provide therein that, after it is approved by the court and the order of relinquishment issued and filed, as required by RCW 26.36.010, and the child relinquished by [to] the petitioners, it is not revocable except for fraud practiced by the petitioners or mental incompetency of the person signing the consent at the time of signing the same;

(3) If the parent signing the consent is a minor, the court shall appoint a guardian ad litem, who shall make an investigation and report prior to the order of relinquishment, covering the competency of the person signing the consent and certifying that the consent was voluntarily made and for the best interests of the child. [1980 c 85 § 1; 1979 ex.s. c 165 § 15; 1975-'76 2nd ex.s. c 42 § 26; 1973 c 134 § 2; 1955 c 291 § 3. Prior: 1947 c 251 § 1; 1943 c 268 § 3; Rem. Supp. 1947 § 1699-4.]

Severability—1980 c 85: "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." [1980 c 85 § 5.]

Severability—Savings—Construction—1975-'76 2nd ex.s. c 42: See RCW 26.26.900-26.26.905.

Severability—1973 c 134: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 c 134 § 13.]

Court order for relinquishment of permanent care, etc.: RCW 26.36.010.

26.32.916 Savings—Certain actions—Time limit. An action or proceeding for adoption commenced after September 1, 1979, and not later than ninety days after March 7, 1980, which complies with the jurisdictional and procedural requirements of chapter 26.32 RCW as it existed prior to September 1, 1979, shall not

be invalid because of a failure to comply with the requirements of chapter 165, Laws of 1979 ex. sess. However, the court in its discretion need not apply this section upon the pleading of a person who alleges, within ninety days after March 7, 1980, that this section prejudices him or her in the exercise of any right. [1980 c 85 § 2.]

Severability—1980 c 85: See note following RCW 26.32.030.

Chapter 26.36 CHILD AGENCIES

Sections

26.36.010 Court order for relinquishment of permanent care, etc.

26.36.010 Court order for relinquishment of permanent care, etc.

Child selling and child buying, class C felony: RCW 9A.64.030.

Title 27 LIBRARIES, MUSEUMS, AND HISTORICAL ACTIVITIES

Chapters

27.12 Public libraries.

Chapter 27.12 PUBLIC LIBRARIES

Sections

27.12.060 Rural library districts—Indebtedness—Coupon warrants.

27.12.060 Rural library districts—Indebtedness—Coupon warrants. The board of library trustees of this district may contract indebtedness, and evidence it by issuing and selling, at par plus accrued interest, coupon warrants of the district in such form as the board of library trustees shall determine. Such warrants may be issued in advance of the tax levy. Such warrants, signed by the chairman and the secretary of the board of library trustees, shall be payable at such times as the board of library trustees shall provide not longer than six years from the date thereof.

The warrants shall be payable to bearer and shall have interest coupons attached providing for the payment of interest semiannually on the first day of January and of July. At the option of the district board, the aggregate amount of coupon warrants may include a sum sufficient to pay the annual interest for a period not exceeding one year from the issuing date of the coupon warrants and, in that event, such interest shall be taken from the proceeds of the sale of the coupon warrants and immediately placed in the coupon warrant fund of the district for payment of the interest coupons maturing

during the first year of the coupon warrants. The issuance thereof shall be recorded in the office of the county treasurer in a book kept for that purpose. All district warrants of every kind shall outlaw and become void after six years from their maturity date but only if there is money in the proper fund available for their payment within such period.

A rural county library district shall be a public corporation with such powers as are necessary to carry out its functions and for taxation purposes shall have the power vested in municipal corporations for such purposes. [1980 c 100 § 1; 1955 c 59 § 6. Prior: 1947 c 75 § 11, part; 1943 c 251 § 1, part; 1941 c 65 § 4, part; Rem. Supp. 1947 § 8226-4a, part.]

Title 28A COMMON SCHOOL PROVISIONS

Chapters

- 28A.03 Superintendent of public instruction.
- 28A.04 State board of education.
- 28A.21 Educational service districts—Superintendent—Boards.
- 28A.24 School transportation.
- 28A.27 Compulsory school attendance.
- 28A.35 Kindergartens.
- 28A.40 Permanent common school fund—Common school construction fund.
- 28A.41 State general fund support to public schools—School district reimbursement programs.
- 28A.45 Excise tax on real estate sales.
- 28A.47 School plant facilities aid—Bond issues.
- 28A.47A School plant facilities aid—1979 bond issue for construction of common school plant facilities.
- 28A.47B School plant facilities aid—1980 bond issue for construction of common school plant facilities.
- 28A.48 Apportionment to districts—District accounting.
- 28A.51 District bonds for lands, buildings and equipment.
- 28A.57 Organization and reorganization of school districts.
- 28A.58 Provisions applicable to all school districts.
- 28A.60 Provisions applicable only to second and third class districts.
- 28A.65 School district budgets.
- 28A.91 Washington state public broadcasting commission.
- 28A.92 Compact for education.
- 28A.97 Educational clinics.

Chapter 28A.03

SUPERINTENDENT OF PUBLIC INSTRUCTION

Bond issue of 1980 for construction of common school plant facilities, superintendent's duties: Chapter 28A.47B RCW.

Chapter 28A.04

STATE BOARD OF EDUCATION

Sections

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| 28A.04.010 | Composition of board. |
| 28A.04.025 | Call and notice of election—Nonvoting member representative of private schools. |
| 28A.04.040 | Declarations of candidacy—Qualifications of candidates—Members restricted from service on local boards. |
| 28A.04.060 | Election procedure—Certificate. |
| 28A.04.063 | Election procedure—Certificate—Nonvoting member representative of private schools. |
| 28A.04.065 | Action to contest election—Grounds—Procedure. |

28A.04.010 Composition of board. The state board of education shall be comprised of two members from each congressional district of the state, not including any congressional district at large, elected by the members of the boards of directors of school districts thereof, as hereinafter in this chapter provided, and one nonvoting member elected at large, as hereinafter in this chapter provided, by the members of the boards of directors of all private schools in the state meeting the requirements of RCW 28A.02.201, as now or hereafter amended. [1980 c 179 § 1; 1969 ex.s. c 223 § 28A.04.010. Prior: 1955 c 218 § 1; 1947 c 258 § 1; 1925 ex.s. c 65 § 1; 1909 c 97 p 234 § 1; RRS § 4525; prior: 1907 c 240 § 2; 1901 c 177 § 6; 1897 c 118 § 24; 1890 p 352 § 6; Code 1881 § 3163. Formerly RCW 28.04.010; 43.63.010.]

Severability—1980 c 179: "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." [1980 c 179 § 8.] This applies to RCW 28A.04.010, 28A.04.025, 28A.04.040, 28A.04.060, 28A.04.063, 28A.04.065 and 28A.21.033.

28A.04.025 Call and notice of election—Nonvoting member representative of private schools. The superintendent of public instruction, at the time of calling the election for state board membership under RCW 28A.04.020, if there be a state board member representative of the private schools within the state whose term of membership will end on the second Monday of January next following, shall call an election to be held throughout the state in those private schools referred to in RCW 28A.04.010 and shall give written notice thereof to each member of the board of directors of each such private school. Such notice shall include such instructions, rules and regulations as provided for in RCW 28A.04.020, as now or hereafter amended. [1980 c 179 § 2.]

Severability—1980 c 179: See note following RCW 28A.04.010.

28A.04.040 Declarations of candidacy—Qualifications of candidates—Members restricted from service on local boards. Candidates for membership on the

state board of education shall file declarations of candidacy with the superintendent of public instruction on forms prepared by the superintendent. Declarations of candidacy may be filed by person or by mail not earlier than the first day of September, or later than the sixteenth day of September. The superintendent of public instruction may not accept any declaration of candidacy that is not on file in his office or is not postmarked before the seventeenth day of September, or if not postmarked or the postmark is not legible, if received by mail after the twenty-first day of September. No person employed in any school, college, university, or other educational institution or any educational service district superintendent's office or in the office of superintendent of public instruction shall be eligible for membership on the state board of education and each member elected who is not representative of the private schools in this state and thus not running-at-large must be a resident of the congressional district from which he was elected. No member of a board of directors of a local school district or private school shall continue to serve in that capacity after having been elected to the state board. [1980 c 179 § 4; 1975 1st ex.s. c 275 § 49; 1971 c 48 § 1; 1969 ex.s. c 223 § 28A.04.040. Prior: 1967 ex.s. c 67 § 6; 1955 c 218 § 5. Formerly RCW 28.04.040; 43.63.023.]

Severability—1980 c 179: See note following RCW 28A.04.010.

Severability—1971 c 48: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 c 48 § 55.] This applies to RCW 28A.04.040, 28A.04.120, 28A.13.020, 28A.14.020, 28A.14.050, 28A.21.105, 28A.21.106, 28A.24.150, 28A.27.040, 28A.28.010, 28A.28.030, 28A.31.050, 28A.35.030, 28A.41.160, 28A.44.050, 28A.44.060, 28A.44.070, 28A.44.080, 28A.44.090, 28A.44.100, 28A.56.030, 28A.56.040, 28A.56.050, 28A.56.060, 28A.57.020, 28A.57.080, 28A.57.415, 28A.58.100, 28A.58.103, 28A.58.150, 28A.58.560, 28A.58.603, 28A.59.080, 28A.59.150, 28A.60.070, 28A.60.186, 28A.60.210, 28A.65.080, 28A.65.100, 28A.65.110, 28A.65.120, 28A.65.150, 28A.65.153, 28A.65.180, 28A.66.050, 28A.66.060, 28A.66.100, 28A.67.040, 28A.67.060, 28A.70.130, 28A.70.160, 28A.70.170, 28A.88.070 and 28A.96.040.

28A.04.060 Election procedure—Certificate. Each member of the state board of education shall be elected by a majority of the electoral points accruing from all the votes cast at the election for all candidates for the position. All votes shall be cast by mail addressed to the superintendent of public instruction and no votes shall be accepted for counting if postmarked after the sixteenth day of October, or if not postmarked or the postmark is not legible, if received by mail after the twenty-first day of October following the call of the election. The superintendent of public instruction and an election board comprised of three persons appointed by the state board of education shall count and tally the votes and the electoral points accruing therefrom not later than the twenty-fifth day of October in the following manner: Each vote cast by a school director shall be accorded as many electoral points as there are enrolled students in that director's school district as determined by the enrollment reports forwarded to the state superintendent of public instruction for apportionment purposes for the month of September of the year of election: *Provided,*

That school directors from a school district which has more than five directors shall have their electoral points based upon enrollment recomputed by multiplying such number by a fraction, the denominator of which shall be the number of directors in such district, and the numerator of which shall be five; the electoral points shall then be tallied for each candidate as the votes are counted; and it shall be the majority of electoral points which determines the winning candidate. If no candidate receives a majority of the electoral points cast, then, not later than the first day of November, the superintendent of public instruction shall call a second election to be conducted in the same manner and at which the candidates shall be the two candidates receiving the highest number of electoral points accruing from such votes cast. No vote cast at such second election shall be received for counting if postmarked after the sixteenth day of November, or if not postmarked or the postmark is not legible, if received by mail after the twenty-first day of November and the votes shall be counted as hereinabove provided on the twenty-fifth day of November. The candidate receiving a majority of electoral points accruing from the votes at any such second election shall be declared elected. In the event of a tie in such second election, the candidate elected shall be determined by a chance drawing of a nature established by the superintendent of public instruction. Within ten days following the count of votes in an election at which a member of the state board of education is elected, the superintendent of public instruction shall certify to the secretary of state the name or names of the persons elected to be members of the state board of education. [1980 c 179 § 5; 1975 c 19 § 2; 1969 ex.s. c 283 § 25; 1969 ex.s. c 223 § 28A.04.060. Prior: 1967 c 158 § 1; 1955 c 218 § 4; 1947 c 258 § 3; Rem. Supp. 1947 § 4525-2. Formerly RCW 28.04.060; 43.63.030.]

Severability—1980 c 179: See note following RCW 28A.04.010.

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

28A.04.063 Election procedure—Certificate—Nonvoting member representative of private schools. Not later than the twenty-fifth day of August of 1980 and, subsequently, not later than the twenty-fifth day of August in any year in which there will be a vacancy in the nonvoting position on the state board on the second Monday of January next following, the superintendent of public instruction shall call an election to be held in those private schools referred to in RCW 28A.04.010, to select the nonvoting member of the state board of education to represent the private schools of the state. Not earlier than the first day of September, nor later than the sixteenth day of September, candidates for this position on the board shall file declarations of candidacy in person or by mail with the superintendent of public instruction on forms prepared by the superintendent. The superintendent of public instruction may not accept any declaration of candidacy that is not on file in his office or is not received by mail before the seventeenth day of September. Not later than the first day of October, the superintendent of public instruction shall send ballots to

the chairperson of each private school referred to in RCW 28A.04.010 enclosing therewith biographical data on each candidate for such membership on the board. Each member of the board of directors of each private school in the state qualified under RCW 28A.04.010 shall be eligible to vote for the candidate for the state board of education representative of the private schools as provided in this section. Each member of the private school board shall obtain a ballot and biographical data from the chairperson of the board and shall cast his or her vote for one candidate whose name appears on the ballot. The ballot shall then be returned to the chairperson of the board who shall compile the votes of the individual board members and declare the candidate who receives a majority of the members' votes to be the candidate of the board. No votes shall be accepted for counting if received by mail after the sixteenth day of October. The superintendent of public instruction, along with three persons appointed by the state board of education, shall count and tally the votes from each private school not later than the twenty-fifth day of October, computing electoral points by multiplying each vote for a candidate by the number of enrolled students in the respective school as determined by enrollment reports forwarded to the superintendent of public instruction for the last previous month of September. Within ten days of such computation the superintendent of public instruction shall immediately notify by certified mail the candidate who received a majority of electoral points in the election, and the private schools so voting, of the results of such election. If no candidate receives a majority of the electoral points cast, then, not later than the first day of November, the superintendent of public instruction shall call a second election to be conducted in the same manner and at which the candidates shall be the two candidates receiving the highest number of electoral points accruing from such votes cast. No vote cast at such second election shall be received for counting if received by mail after the sixteenth day of November and the votes shall be counted as hereinabove provided on the twenty-fifth day of November. The candidate receiving a majority of electoral points accruing from the votes at any such second election shall be declared elected. In the event of a tie in such second election, the candidate elected shall be determined by a chance drawing of a nature established by the superintendent of public instruction. Within ten days following the count of votes in an election at which a member of the state board of education representative of the private schools in the state is elected, the superintendent of public instruction shall certify to the secretary of state the name of the person elected to be a member of the state board of education. [1980 c 179 § 3.]

Severability—1980 c 179: See note following RCW 28A.04.010.

28A.04.065 Action to contest election—
Grounds—Procedure. Any common school district board member or any private school board member eligible to vote for a candidate for membership on the state board of education or any candidate for the position, within ten days after the state superintendent of public

instruction's certification of election, may contest the election of the candidate for any of the following causes:

(1) For malconduct on the part of the state superintendent of public instruction or any member of the election board with respect to such election;

(2) Because the person whose right is being contested was not eligible for membership on the state board of education at the time the person was certified as elected;

(3) Because the person whose right is being contested gave a bribe or reward to a voter or to an inspector, judge or clerk of the election for the purpose of procuring the person's election, or offered to do so;

(4) On account of illegal votes.

An action contesting an election pursuant to this section shall be conducted in compliance with RCW 29.65-.020 and 29.65.040 through 29.65.120, as now or hereafter amended. [1980 c 179 § 6; 1975 c 19 § 1.]

Severability—1980 c 179: See note following RCW 28A.04.010.

Chapter 28A.21

EDUCATIONAL SERVICE DISTRICTS— SUPERINTENDENT—BOARDS

Sections

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| 28A.21.033 | ESD board—Members—Elections, procedure—Certification of results. |
| 28A.21.360 | ESD employee attendance incentive program—Remuneration for unused sick leave. |

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 postmarked after the sixteenth day of October or if not postmarked or the postmark is not legible, if received by mail after the twenty-first 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 or if not postmarked or the postmark is not legible, if received by mail after the twenty-first 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. [1980 c 179 § 7; 1977 ex.s. c 283 § 17.]

Severability—1980 c 179: See note following RCW 28A.04.010.

Severability—1977 ex.s. c 283: See note following RCW 28A.21.010.

28A.21.360 ESD employee attendance incentive program—Remuneration for unused sick leave. Every educational service district board of directors shall establish an attendance incentive program for all certificated and noncertificated employees in the following manner. In January of the year following any year in which a minimum of sixty days of leave for illness or injury is accrued, and each January thereafter, any eligible employee may exercise an option to receive remuneration for unused leave for illness or injury accumulated in the previous year at a rate equal to one day's monetary compensation of the employee for each four full days of accrued leave for illness or injury in excess of sixty days. Leave for illness or injury for which compensation has been received shall be deducted from accrued leave for illness or injury at the rate of four days for every one day's monetary compensation: *Provided*, That no employee may receive compensation under this section for any portion of leave for illness or injury accumulated at a rate in excess of one day per month.

At the time of separation from educational service district employment due to retirement or death an eligible employee or the employee's estate shall receive remuneration at a rate equal to one day's current monetary compensation of the employee for each four full days accrued leave for illness or injury: *Provided*, That an employee shall be entitled to all the benefits conferred by this section as of June 12, 1980, but the educational service district may, in its discretion, delay payments due upon retirement or death, with interest at the rate of eight percent per year, to an eligible employee or the employee's estate until September 1, 1981.

Moneys received under this section shall not be included for the purposes of computing a retirement allowance under any public retirement system in this state.

The superintendent of public instruction in its administration hereof, shall promulgate uniform rules and regulations to carry out the purposes of this section.

Should the legislature revoke any benefits granted under this section, no affected employee shall be entitled thereafter to receive such benefits as a matter of contractual right. [1980 c 182 § 6.]

Severability—1980 c 182: See note following RCW 41.04.340.

Chapter 28A.24

SCHOOL TRANSPORTATION

Sections

- 28A.24.055 Transporting of children to school or school activities—Transporting of elderly—Insurance.
- 28A.24.175 School buses, transport of general public to interscholastic activities—Limitations.
- 28A.24.178 School buses, authorization for parent, guardian or custodian of a student to ride—Limitations.

28A.24.055 Transporting of children to school or school activities—Transporting of elderly—Insurance. Every board of directors shall provide and pay for transportation of children to and from school whether such children live within or without the district when in its judgment the best interests of the district will be subserved thereby, but the board is not compelled to transport any pupil living within two miles of the schoolhouse.

When children are transported from one school district to another the board of directors of the respective districts may enter into a written contract providing for a division of the cost of such transportation between the districts.

When commercial charter bus service is not reasonably available to a school district, the state board of education may authorize the use of school buses and drivers hired by the district for the transportation of school children and the school employees necessary for their supervision to and from any school activities within or without the school district during or after school hours and whether or not a required school activity, so long as the school board has officially designated it as a school activity. For any extra-curricular uses, the school board shall charge an amount sufficient to reimburse the district for its cost.

In addition to the right to contract for the use of buses provided in RCW 28A.24.170 and 28A.24.172, any school district may contract to furnish the use of school buses of that district to other users who are engaged in conducting an educational or recreational program supported wholly or in part by tax funds or programs for elderly persons at times when those buses are not needed by that district and under such terms as will fully reimburse such school district for all costs related or incident thereto: *Provided, however*, That no such use of school district buses shall be permitted except where other public or private transportation certificated or licensed by the Washington utilities and transportation commission is not reasonably available to the user: *Provided further*, That no user shall be required to accept any charter bus for services which the user believes might place the health or safety of the children or elderly persons in jeopardy.

Whenever any persons are transported by the school district in its own motor vehicles and by its own employees, the board may provide insurance to protect the district against loss, whether by reason of theft, fire or property damage to the motor vehicle or by reason of liability of the district to persons from the operation of such motor vehicle.

The board may provide insurance by contract purchase for payment of hospital and medical expenses in an amount not exceeding one thousand dollars per person per injury for the benefit of persons injured while they are on, getting on, or getting off any vehicles enumerated herein without respect to any fault or liability on the part of the school district or operator. This insurance may be provided without cost to the persons notwithstanding the provisions of RCW 28A.58.420.

If the transportation of children or elderly persons is arranged for by contract of the district with some person, the board may require such contractor to procure such insurance as the board deems advisable. [1980 c 122 § 2; 1973 c 45 § 1; 1971 c 24 § 3; 1969 ex.s. c 153 § 3; 1969 ex.s. c 223 § 28A.24.055. Prior: (i) 1969 c 53 § 1; 1967 ex.s. c 29 § 1, part; 1967 c 12 § 1, part; 1965 ex.s. c 49 § 1, part; 1963 c 104 § 1, part; 1963 c 5 § 1, part; 1961 c 305 § 1, part; 1961 c 237 § 1, part; 1961 c 66 § 1, part; 1955 c 68 § 2, part; prior: 1943 c 52 § 1, part; 1941 c 179 § 1, part; 1939 c 131 § 1, part; 1925 ex.s. c 57 § 1, part; 1919 c 90 § 3, part; 1915 c 44 § 1, part; 1909 c 97 p 285 § 2, part; 1907 c 240 § 5, part; 1903 c 104 § 17, part; Rem. Supp. 1943 § 4776, part. Formerly RCW 28.58.100, part. (ii) 1965 ex.s. c 86 § 1. Formerly RCW 28.58.421.]

Elderly person defined—Program limitation: RCW 28A.24.120.

28A.24.175 School buses, transport of general public to interscholastic activities—Limitations. In addition to the authority otherwise provided in this chapter to school districts for the transportation of persons, whether school children, school personnel, or otherwise, any school district authorized to use school buses and drivers hired by the district for the transportation of school children to and from a school activity, along with such school employees as necessary for their supervision, shall, if such school activity be an interscholastic activity, be authorized to transport members of the general public to such event and utilize the school district's buses, transportation equipment and facilities, and employees therefor: *Provided*, That provision shall be made for the reimbursement and payment to the school district by such members of the general public of not less than the district's actual costs and the reasonable value of the use of the district's buses and facilities provided in connection with such transportation: *Provided further*, That wherever private transportation certified or licensed by the utilities and transportation commission or public transportation is reasonably available as determined by rule and regulation of the state board of education, this section shall not apply. [1980 c 91 § 1.]

28A.24.178 School buses, authorization for parent, guardian or custodian of a student to ride—Limitations. Every school district board of directors may authorize any parent, guardian or custodian of a student enrolled in the district to ride a school bus or other student transportation vehicle at the request of school officials or employees designated by the board: *Provided*, That excess seating space is available on the vehicle after the transportation needs of students have been met:

Provided further, That private or other public transportation of the parent, guardian or custodian is not reasonable in the board's judgment. [1980 c 122 § 1.]

Chapter 28A.27

COMPULSORY SCHOOL ATTENDANCE

Sections

28A.27.010 Attendance mandatory—Age—Persons having custody shall cause child to attend public school unless excused—Excused temporary absences.

28A.27.010 Attendance mandatory—Age—Persons having custody shall cause child to attend public school unless excused—Excused temporary absences. All parents, guardians and the persons in this state having custody of any child eight years of age and under fifteen years of age shall cause such child to attend the public school of the district in which the child resides for the full time when such school may be in session or to attend a private school for the same time unless the school district superintendent of the district in which the child resides shall have excused such child from attendance because the child is physically or mentally unable to attend school, is attending a residential school operated by the department of social and health services, or has been excused upon the request of his or her parents, guardians, or persons in this state having custody of any such child, for purposes agreed upon by the school authorities and the parent, guardian or custodian: *Provided*, That such excused absences shall not be permitted if deemed to cause a serious adverse effect upon the student's educational progress: *Provided further*, That students excused for such temporary absences may be claimed as full time equivalent students to the extent they would otherwise have been so claimed for the purposes of RCW 28A.41.130 and 28A.41.140, as now or hereafter amended, and shall not affect school district compliance with the provisions of RCW 28A.58.754, as now or hereafter amended.

All parents, guardians and other persons in this state having custody of any child fifteen years of age and under eighteen years of age shall cause such child to attend the public school of the district in which the child resides for the full time when such school may be in session or to attend a private school for the same time excepting when the school district superintendent determines that such child is physically or mentally unable to attend school or has already attained a reasonable proficiency in the branches required by law to be taught in the first nine grades of the public schools of this state, or the child has been temporarily excused in accordance with this section, or the child is regularly and lawfully engaged in a useful or remunerative occupation, or the child is attending a residential school operated by the department of social and health services, or the child has already met graduation requirements in accordance with state board of education rules and regulations, or the child has received a certificate of educational competence under rules and regulations established by the state board of education under RCW 28A.04.135.

An approved private and/or parochial school for the purposes of this section shall be one approved under regulations established by the state board of education pursuant to RCW 28A.04.120 as now or hereafter amended. [1980 c 59 § 1; 1979 ex.s. c 201 § 4; 1973 c 51 § 1; 1972 ex.s. c 10 § 2. Prior: 1971 ex.s. c 215 § 2; 1971 ex.s. c 51 § 1; 1969 ex.s. c 109 § 2; 1969 ex.s. c 223 § 28A.27.010; prior: 1909 p 364 § 1; RRS § 5072; prior: 1907 c 240 § 7; 1907 c 231 § 1; 1905 c 162 § 1; 1903 c 48 § 1; 1901 c 177 § 11; 1899 c 140 § 1; 1897 c 118 § 71. Formerly RCW 28.27.010.]

Severability—1973 c 51: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 c 51 § 5.] This applies to RCW 28A.27.010, 28A.04.135, 49.12.123 and the repeal of chapters 28A.06 and 28A.28 RCW.

Private and/or parochial schools now private schools: See RCW 28A.04.120(4), 28A.02.201 and 28A.02.220–28A.02.250.

Work permits for minors required: RCW 49.12.123.

Chapter 28A.35 KINDERGARTENS

Sections

28A.35.030 Maintained from district general school fund—Attendance reports for apportionment purposes—Census enumeration.

28A.35.030 Maintained from district general school fund—Attendance reports for apportionment purposes—Census enumeration. The cost of establishing and maintaining such kindergartens shall be paid from the general school fund of the district. It shall be the duty of teachers, school district superintendents and educational service district superintendents to respectively report as other school attendance is reported, the attendance of all children five years of age or over at such kindergartens, and it shall thereupon be the duty of the superintendent of public instruction to make apportionment to the proper counties, and of the respective educational service district superintendents to apportion to the districts entitled thereto, such funds as are apportioned by the legislature in accordance with the provisions of chapter 28A.41 RCW. It shall be the duty of all school district superintendents to include children four years of age and over in the enumeration of the annual school census. [1980 c 6 § 4; 1975 1st ex.s. c 275 § 59; 1971 c 48 § 13; 1969 ex.s. c 223 § 28A.35.030. Prior: 1917 c 127 § 1, part; RRS § 5098, part. Cf. 1911 c 82 § 1; 1909 c 97 p 371 subc. 19; 1897 c 118 § 181. Formerly RCW 28.35.030, 28.35.050 and 28.35.060.]

Severability—1980 c 6: See note following RCW 28A.40.100.

Severability—1971 c 48: See note following RCW 28A.04.040.

Chapter 28A.40

PERMANENT COMMON SCHOOL FUND— COMMON SCHOOL CONSTRUCTION FUND

Sections

28A.40.100 Common school construction fund—Sources—Use.

28A.40.100 Common school construction fund—Sources—Use. The common school construction fund is to be used exclusively for the purpose of financing the construction of facilities for the common schools. The sources of said fund shall be: (1) Those proceeds derived from sale or appropriation of timber and other crops from school and state land subsequent to June 30, 1965, other than those granted for specific purposes; (2) the interest accruing on the permanent common school fund from and after July 2, 1967, together with all rentals and other revenue derived therefrom and from land and other property devoted to the permanent common school fund from and after July 1, 1967; (3) all moneys received by the state from the United States under the provisions of section 191, Title 30, United States Code, Annotated, and under section 810, chapter 12, Title 16, (Conservation), United States Code, Annotated; and (4) such other sources as the legislature may direct. That portion of the common school construction fund derived from interest on the permanent common school fund may be used to retire such bonds as may be authorized by law for the purpose of financing the construction of facilities for the common schools.

The interest accruing on the permanent common school fund together with all rentals and other revenues accruing thereto pursuant to subsection (2) of this section prior to July 1, 1967, shall be exclusively applied to the current use of the common schools. [1980 c 6 § 1; 1969 ex.s. c 223 § 28A.40.100. Prior: 1967 c 29 § 3. Formerly RCW 28.40.100.]

Severability—1980 c 6: "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." [1980 c 6 § 8.] This applies to RCW 28A.35.030, 28A.40.100, 28A.41.040, 28A.41.050, 28A.48.010, and 43.79.425, and the repeal of RCW 28A.41.020 and 28A.41.030.

Current state school fund—Abolished—Moneys transferred: RCW 43.79.425.

Chapter 28A.41

STATE GENERAL FUND SUPPORT TO PUBLIC SCHOOLS—SCHOOL DISTRICT REIMBURSEMENT PROGRAMS

(Formerly: Current state school fund—School district reimbursement programs)

Sections

28A.41.020 Repealed.
28A.41.030 Repealed.
28A.41.040 State general fund—Estimates for state support to public schools, from.
28A.41.050 Appropriations by legislature.
28A.41.053 Appropriations for handicapped programs.
28A.41.130 Annual basic education allocation of funds according to average FTE student enrollment—

- Student/teacher ratio standard (as amended by 1979 ex.s. c 250).
- 28A.41.130 Annual basic education allocation of funds according to average FTE student enrollment—Student/teacher ratio standard (as amended by 1980 c 154). (Effective September 1, 1981.)
- 28A.41.143 Annual basic education allocation of funds according to average FTE student enrollment—Procedure for crediting portion for school building purposes.
- 28A.41.250 URRD education programs—Budget request for.

28A.41.020 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.41.030 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.41.040 State general fund—Estimates for state support to public schools, from. At such time as the governor shall determine under the provisions of chapter 43.88 RCW, the superintendent of public instruction shall submit such detailed estimates and other information to the governor and in such form as the governor shall determine of the total estimated amount required for appropriation from the state general fund for state support to public schools during the ensuing biennium. [1980 c 6 § 2; 1969 ex.s. c 223 § 28A.41.040. Prior: 1945 c 141 § 11; Rem. Supp. 1945 § 4940–9. Formerly RCW 28.41.040.]

Severability—1980 c 6: See note following RCW 28A.40.100.

28A.41.050 Appropriations by legislature. The state legislature shall, at each regular session in an odd-numbered year, appropriate from the state general fund for the current use of the common schools such amounts as needed for state support to the common schools during the ensuing biennium as in this chapter provided. [1980 c 6 § 3; 1969 ex.s. c 223 § 28A.41.050. Prior: 1945 c 141 § 2; Rem. Supp. 1945 § 4940–2. Formerly RCW 28.41.050.]

Severability—1980 c 6: See note following RCW 28A.40.100.

28A.41.053 Appropriations for handicapped programs. The superintendent of public instruction shall submit to each regular session of the legislature during an odd-numbered year a programmed budget request for handicapped programs. Programs operated by local school districts shall be funded on an excess cost basis from appropriations provided by the legislature for handicapped programs and shall take account of state funds accruing through RCW 28A.41.130, 28A.41.140, and other state and local funds, excluding special excess levies. [1980 c 87 § 5; 1971 ex.s. c 66 § 11.]

Severability—Effective date—1971 ex.s. c 66: See notes following RCW 28A.13.005.

28A.41.130 Annual basic education allocation of funds according to average FTE student enrollment—Student/teacher ratio standard (as amended by 1979 ex.s. c 250). 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, each as now or hereafter amended, to fund those program requirements identified in RCW 28A.58.754, as now or hereafter amended, in accordance with the formula and ratios provided in RCW 28A.41.140, as now or hereafter amended.

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 a valid teaching certificate or permit issued by the superintendent of public instruction 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 practically 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 the foregoing student/teacher ratio requirements.

If a school district's basic education program fails to meet the basic education program requirements enumerated in RCW 28A.41.130, 28A.41.140 and 28A.58.754, each as now or hereafter amended, or established by rule pursuant thereto, 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: *Provided further*, That effective July 1, 1979, those school districts which have been found by the state board of education to be out of compliance with the basic education program requirements enumerated in RCW 28A.58.754 during the 1978 and 1979 school year shall be deemed to be in compliance if such districts are in compliance with those basic education program requirements enumerated in RCW 28A.58.754 as of August 15, 1979. [1979 ex.s. c 250 § 2; 1977 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—1979 ex.s. c 250: See notes following RCW 28A.58.754.

28A.41.130 Annual basic education allocation of funds according to average FTE student enrollment—Student/teacher ratio standard (as amended by 1980 c 154). (Effective September 1, 1981.) 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 an appropriate portion of such locally available revenues, other than receipts from federal forest revenues distributed to school districts pursuant to RCW 36.33.110, as the superintendent of public instruction may deem appropriate for consideration in computing state equalization support, 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.

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 the state board of education may waive this requirement in the event of substantial lack of classroom space. [1980 c 154 § 12; 1977 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.]

Reviser's note: RCW 28A.41.130 was amended during the 1979 extraordinary legislative session by 1979 ex.s. c 250 § 2; such section was subsequently amended during the 1980 regular session, 1980 c 154 § 12, effective September 1, 1981, without reference to the 1979 amendment; for codification purposes we are therefore treating such amendments to RCW 28A.41.130 as double amendments.

Purpose—Effective date—Savings—Disposition of certain funds—Severability—1980 c 154: See notes following chapter 82.45 RCW digest.

Effective date—Severability—1977 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.

28A.41.143 Annual basic education allocation of funds according to average FTE student enrollment—Procedure for crediting portion for school building purposes. The board of directors of a school district may, by properly executed resolution, request that the superintendent of public instruction direct a portion of the district's basic education allocation be credited to the district's building fund and/or bond redemption fund. Moneys so credited shall be used solely for school building purposes. [1980 c 154 § 13.]

Purpose—Effective date—Savings—Disposition of certain funds—Severability—1980 c 154: See notes following chapter 82.45 RCW digest.

28A.41.250 URRD education programs—Budget request for. The superintendent of public instruction shall submit to each regular session of the legislature during an odd-numbered year a programmed budget request for urban, rural, racial, and disadvantaged education programs. [1980 c 87 § 6; 1974 ex.s. c 85 § 1.]

Severability—1974 ex.s. c 85: "If any provision of this 1974 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 85 § 7.] This applies to RCW 28A.41.250, 28A.41.260, 28A.41.270, 28A.41.280 and 28A.41.290.

Remedial assistance program—As part of URRD program: RCW 28A.41.412.

Chapter 28A.45

EXCISE TAX ON REAL ESTATE SALES

Sections

| | |
|------------|--|
| 28A.45.010 | Recodified. (Effective September 1, 1981.) |
| 28A.45.020 | Recodified. (Effective September 1, 1981.) |
| 28A.45.030 | Recodified. (Effective September 1, 1981.) |
| 28A.45.032 | Recodified. (Effective September 1, 1981.) |
| 28A.45.035 | Recodified. (Effective September 1, 1981.) |
| 28A.45.050 | Repealed. (Effective September 1, 1981.) |
| 28A.45.060 | Recodified. (Effective September 1, 1981.) |
| 28A.45.070 | Recodified. (Effective September 1, 1981.) |
| 28A.45.080 | Recodified. (Effective September 1, 1981.) |
| 28A.45.090 | Recodified. (Effective September 1, 1981.) |
| 28A.45.100 | Repealed. (Effective September 1, 1981.) |
| 28A.45.105 | Recodified. (Effective September 1, 1981.) |
| 28A.45.120 | Standards for reporting, application and collection of tax—Real estate excise tax affidavit form, contents, use. |
| 28A.45.120 | Recodified. (Effective September 1, 1981.) |

28A.45.010 Recodified. (Effective September 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.45.020 Recodified. (Effective September 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.45.030 Recodified. (Effective September 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.45.032 Recodified. (Effective September 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.45.035 Recodified. (Effective September 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.45.050 Repealed. (Effective September 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.45.060 Recodified. (Effective September 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.45.070 Recodified. (Effective September 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.45.080 Recodified. (Effective September 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.45.090 Recodified. (Effective September 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.45.100 Repealed. (Effective September 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.45.105 Recodified. (Effective September 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.45.120 Standards for reporting, application and collection of tax—Real estate excise tax affidavit form, contents, use. The department of revenue is authorized and shall prescribe minimum standards for uniformity in reporting, application, and collection of the real estate excise tax imposed by this chapter.

The department of revenue shall also prescribe a real estate excise tax affidavit form which shall contain, at least, the following:

- (1) Identification of the seller and purchaser;
- (2) Description of the property involved including the tax parcel or account number(s);
- (3) Date of sale, type of instrument of sale, nature of transfer;
- (4) Gross sales price;
- (5) Whether or not the land is classified or designated as forest land under chapter 84.33 RCW; or classified as open space land, farm and agricultural land, or timberland under chapter 84.34 RCW; and
- (6) Signatures of both the buyer and seller, under oath.

Each county shall use the affidavit form prescribed by the department of revenue. [1980 c 134 § 1; 1969 ex.s. c 223 § 28A.45.120. Prior: 1967 ex.s. c 149 § 3. Formerly RCW 28.45.120.]

28A.45.120 Recodified. (Effective September 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 28A.47

SCHOOL PLANT FACILITIES AID—BOND ISSUES

Sections

| | |
|------------|---|
| 28A.47.073 | Modernization of existing school facilities. |
| 28A.47.801 | 1969 appropriation for construction, modernization of school plant facilities—Allocation by state board—Local school district participation, board rules and regulations. |

28A.47.073 Modernization of existing school facilities. Whenever funds are appropriated for modernization of existing school facilities, the state board of education is authorized to approve the use of such funds for modernization of existing facilities, modernization being limited to major structural changes in such facilities and, as necessary to bring such facilities into compliance with the handicapped access requirements of section 504 of the federal rehabilitation act of 1973 (29 U.S.C. Sec. 706) and rules implementing the act, both major and minor structural changes, and may include as incidental thereto the replacement of fixtures, fittings, furnishings and service systems of a building in order to bring it up to a contemporary state consistent with the needs of changing educational programs. The allocation of such funds shall be made upon the same basis as funds used for the financing of a new school plant project utilized for a similar purpose. [1980 c 154 § 17; 1969 ex.s. c 223 § 28A.47.073. Prior: 1967 ex.s. c 21 § 1. Formerly RCW 28.47.073.]

Purpose—Effective date—Savings—Disposition of certain funds—Severability—1980 c 154: See notes following chapter 82.45 RCW digest.

28A.47.801 1969 appropriation for construction, modernization of school plant facilities—Allocation by state board—Local school district participation, board rules and regulations. Funds appropriated to the state board of education from the common school construction fund shall be allotted by the state board of education in accordance with student enrollment as computed for the purposes of RCW 28A.41.140 and the provisions of RCW 28A.47.800 through 28A.47.811: *Provided*, That no allotment shall be made to a school district for the purpose aforesaid until such district has provided funds for school building construction purposes through the authorization of bonds or through the authorization of excess tax levies or both in an amount equivalent to two and one-half percent of the value of its taxable property, as defined in RCW 39.36.015, or such lesser amount as may be required by the state board of education: *Provided further*, That no such matching funds shall be required as a condition to the allotment of funds for the purpose of making major or minor structural changes to existing school facilities in order to bring such facilities into compliance with the handicapped access requirements of section 504 of the federal rehabilitation act of 1973 (29 U.S.C. Sec. 706) and rules implementing the act. The state board of education shall prescribe and make effective such rules and regulations as are necessary to equate insofar as possible the efforts made by

school districts to provide capital funds by the means aforesaid. [1980 c 154 § 18; 1974 ex.s. c 56 § 1; 1970 ex.s. c 42 § 5; 1969 ex.s. c 244 § 2. Formerly RCW 28.47.801.]

Purpose—Effective date—Savings—Disposition of certain funds—Severability—1980 c 154: See notes following chapter 82.54 RCW digest.

Severability—1974 ex.s. c 56: "If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 56 § 9.] This applies to RCW 28A.47.801, 28A.47.802, 28A.47.803, 28A.47.805, 28A.47.807, 28A.47.808, 28A.47.809, and 28A.47.810.

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

Severability—1969 ex.s. c 244: See note following RCW 28A.47.800.

Chapter 28A.47A

SCHOOL PLANT FACILITIES AID—1979 BOND ISSUE FOR CONSTRUCTION OF COMMON SCHOOL PLANT FACILITIES

Sections

28A.47A.010 through 28A.47A.110 Repealed.

28A.47A.010 through 28A.47A.110 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 28A.47B

SCHOOL PLANT FACILITIES AID—1980 BOND ISSUE FOR CONSTRUCTION OF COMMON SCHOOL PLANT FACILITIES

Sections

| | |
|-------------|--|
| 28A.47B.010 | Bonds authorized—Amount—As compensation for sale of timber—Sale, conditions. |
| 28A.47B.020 | Bond anticipation notes—Authorized—Payment. |
| 28A.47B.030 | Form, terms, conditions, sale and covenants of bonds and notes. |
| 28A.47B.040 | Disposition of proceeds from sale of bonds and notes—Use. |
| 28A.47B.050 | State general obligation bond retirement fund utilized for payment of bond principal and interest—Procedure. |
| 28A.47B.060 | Bonds as legal investment for public funds. |
| 28A.47B.070 | Chapter provisions as limited by other statutes, covenants and proceedings. |
| 28A.47B.080 | Proceeds from sale of bonds as compensation for sale of timber from trust lands. |

28A.47B.010 Bonds authorized—Amount—As compensation for sale of timber—Sale, conditions. For the purpose of furnishing funds for state assistance to school districts in providing for the construction of common school plant facilities, the state finance committee is hereby authorized to issue general obligation bonds of the state of Washington in the sum of thirty million dollars or so much thereof as may be required to provide state assistance to local school districts for the construction of common school plant facilities and to compensate the common school construction fund for the sale of timber from common school, indemnity, and escheat

trust lands sold to the parks and recreation commission prior to March 13, 1980, pursuant to RCW 43.51.270 and 43.51.280. The amount of bonds issued under this chapter shall not exceed the fair market value of the timber. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation and these bonds shall be paid and discharged in not more than thirty years of the date of issuance. [1980 c 141 § 1.]

Emergency—1980 c 141: "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." [1980 c 141 § 12.] Because of this emergency section, the effective date of 1980 c 141 was March 13, 1980.

Appropriation—1980 c 141: "There is appropriated from the common school construction fund to the superintendent of public instruction and the state board of education for the biennium ending June 30, 1981, the sum of thirty million dollars in proceeds from the bonds authorized by this act, or so much thereof as is available, to provide for the payment of the expenses incurred in the printing, issuance, and sale of the bonds and the construction and modernization as provided in RCW 28A.47.073, as now or hereafter amended, of common school buildings, the initial equipping thereof, and the development of building sites." [1980 c 141 § 10.]

The above annotations are applicable to RCW 28A.47B.010, 28A.47B.020, 28A.47B.030, 28A.47B.040, 28A.47B.050, 28A.47B.060, 28A.47B.070 and 28A.47B.080 and the repeal of RCW 28A.47A.010 through 28A.47A.110.

28A.47B.020 Bond anticipation notes—Authorized—Payment. When the state finance committee has determined to issue the general obligation bonds or a portion thereof as authorized in RCW 28A.47B.010 it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of the bonds, which notes shall be designated as "bond anticipation notes." Such portion of the proceeds of the sale of bonds as may be required for the payment of the principal of and redemption premium, if any, and interest on the notes shall be applied thereto when the bonds are issued. [1980 c 141 § 2.]

Emergency—Appropriation—1980 c 141: See notes following RCW 28A.47B.010.

28A.47B.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 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 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. [1980 c 141 § 3.]

Emergency—Appropriation—1980 c 141: See notes following RCW 28A.47B.010.

28A.47B.040 Disposition of proceeds from sale of bonds and notes—Use. Except for that portion of the proceeds required to pay bond anticipation notes, the proceeds from the sale of the bonds and bond anticipation notes authorized by this chapter, and any interest

earned on the proceeds, 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 common school construction fund and shall be used exclusively for the purposes of carrying out this chapter, and for payment of the expense incurred in the printing, issuance and sale of the bonds. [1980 c 141 § 4.]

Emergency—Appropriation—1980 c 141: See notes following RCW 28A.47B.010.

28A.47B.050 State general obligation bond retirement fund utilized for payment of bond principal and interest—Procedure. The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds authorized by this chapter.

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 the bonds and the dates on which the payments are due. The state treasurer, not less than thirty days prior to the date on which any interest or principal and interest payment is due, shall withdraw from any general state revenues or any other funds constitutionally available and received in the state treasury and deposit in the state general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date. [1980 c 141 § 5.]

Emergency—Appropriation—1980 c 141: See notes following RCW 28A.47B.010.

28A.47B.060 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. [1980 c 141 § 6.]

Emergency—Appropriation—1980 c 141: See notes following RCW 28A.47B.010.

28A.47B.070 Chapter provisions as limited by other statutes, covenants and proceedings. No provisions of this chapter shall be deemed to repeal, override, or limit any provision of RCW 28A.47.784 through 28A.47.811, nor any provision or covenant of the proceedings of the state finance committee acting for and on behalf of the state of Washington heretofore or hereafter taken in the issuance of its revenue or general obligation bonds secured by a pledge of the interest earnings of the permanent common school fund under these statutes. [1980 c 141 § 7.]

Emergency—Appropriation—1980 c 141: See notes following RCW 28A.47B.010.

28A.47B.080 Proceeds from sale of bonds as compensation for sale of timber from trust lands. The proceeds received from the sale of the bonds issued under this chapter which are deposited in the common school

construction fund and available for common school construction purposes shall serve as total compensation to the common school construction fund for the proceeds from the sale of timber from trust lands sold prior to March 13, 1980, to the state parks and recreation commission pursuant to RCW 43.51.270 and 43.51.280 which are required to be deposited in the common school construction fund. The superintendent of public instruction and the state board of education shall expend by June 30, 1981, the proceeds received from the bonds issued under this chapter. [1980 c 141 § 8.]

Emergency—Appropriation—1980 c 141: See notes following RCW 28A.47B.010.

Chapter 28A.48

APPORTIONMENT TO DISTRICTS—DISTRICT ACCOUNTING

Sections
28A.48.010 By state superintendent.

28A.48.010 By state superintendent. On or before the last business day of September 1969 and each month thereafter, the superintendent of public instruction shall apportion from the state general fund to the several educational service districts of the state the proportional share of the total annual amount due and apportionable to such educational service districts for the school districts thereof as follows:

| | |
|-----------------|------|
| September | 9% |
| October | 9% |
| November | 5.5% |
| December | 9% |
| January | 9% |
| February | 9% |
| March | 9% |
| April | 9% |
| May | 5.5% |
| June | 9% |
| July | 8.5% |
| August | 8.5% |

The annual amount due and apportionable shall be the amount apportionable for all apportionment credits estimated to accrue to the schools during the apportionment year beginning September first and continuing through August thirty-first. Appropriations made for school districts for each year of a biennium shall be apportioned according to the schedule set forth in this section for the fiscal year starting September 1st of the then calendar year and ending August 31st of the next calendar year. The apportionment from the state general fund for each month shall be an amount which will equal the amount due and apportionable to the several educational service districts during such month: *Provided*, That any school district may petition the superintendent of public instruction for an emergency advance of funds which may become apportionable to it but not to exceed ten percent of the total amount to become due

and apportionable during the school districts apportionment year. The superintendent of public instruction shall determine if the emergency warrants such advance and if the funds are available therefor. If he determines in the affirmative, he may approve such advance and, at the same time, add such an amount to the apportionment for the educational service district in which the school district is located: *Provided*, That the emergency advance of funds and the interest earned by school districts on the investment of temporary cash surpluses resulting from obtaining such advance of state funds shall be deducted by the superintendent of public instruction from the remaining amount apportionable to said districts during that apportionment year in which the funds are advanced. [1980 c 6 § 5; 1979 ex.s. c 237 § 1; 1975-'76 2nd ex.s. c 118 § 27; 1975 1st ex.s. c 275 § 67; 1974 ex.s. c 89 § 1; 1972 ex.s. c 146 § 1; 1970 ex.s. c 15 § 15. Prior: 1969 ex.s. c 184 § 3; 1969 ex.s. c 176 § 108; 1969 ex.s. c 223 § 28A.48.010; prior: 1965 ex.s. c 162 § 1; 1959 c 276 § 3; prior: 1945 c 141 § 3, part; 1923 c 96 § 1; 1911 c 118 § 1; 1909 c 97 p 312 §§ 1, 2, 3; Rem. Supp. 1945 § 4940-3, part. Formerly RCW 28.48.010.]

Severability—1980 c 6: See note following RCW 28A.40.100.

Effective date—1979 ex.s. c 237: "This amendatory act is effective September 1, 1979." [1979 ex.s. c 237 § 2.] This applies to RCW 28A.48.010.

Severability—1975-'76 2nd ex.s. c 118: See notes following RCW 28A.65.400.

Effective date—1972 ex.s. c 146: "This 1972 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and section 1 shall take effect July 1, 1972, and section 2 shall take effect immediately." [1972 ex.s. c 146 § 3.] Section 1 of this 1972 act is codified as RCW 28A.48.010, declared effective July 1, 1972; section 2 of this 1972 act is codified as RCW 28A.41.175.

Severability—1970 ex.s. c 15: See note following RCW 28A.02.070.

Chapter 28A.51

DISTRICT BONDS FOR LANDS, BUILDINGS AND EQUIPMENT

Sections

28A.51.010 Directors may borrow money, issue bonds—Rate of interest, term, form, sale and redemption.

28A.51.010 Directors may borrow money, issue bonds—Rate of interest, term, form, sale and redemption. The board of directors of any school district may borrow money and issue negotiable coupon bonds therefor for the purpose of:

(1) Funding outstanding indebtedness or bonds therefor issued; or

(2) For the purchase of sites for all buildings, playgrounds, physical education and athletic facilities and structures authorized by law or necessary or proper to carry out the functions of a school district; or

(3) For erecting all buildings authorized by law, including but not limited to those mentioned in subparagraph (2) immediately above or necessary or proper to carry out the functions of a school district, and providing

the necessary furniture, apparatus, or equipment therefor; or

(4) For improving the energy efficiency of school district buildings and/or installing systems and components to utilize renewable and/or inexhaustible energy resources; or

(5) For major and minor structural changes and structural additions to buildings, structures, facilities and sites necessary or proper to carrying out the functions of the school district; or

(6) For any or all of these purposes.

Neither the amount of money borrowed nor bonds issued therefor shall exceed the limitation of indebtedness prescribed by chapter 39.36 RCW, as now or hereafter amended.

Bonds may be issued only when authorized by the vote of the qualified electors of the district as provided by law.

The bonds so issued shall be in such form, for such terms, bear such interest, be sold in such manner, and be payable and redeemable, as the board of directors shall determine in accordance with this chapter and chapter 39.44 RCW. [1980 c 170 § 1; 1970 ex.s. c 42 § 7; 1969 c 142 § 2; 1969 ex.s. c 223 § 28A.51.010. Prior: 1953 c 163 § 1; 1927 c 99 § 1; 1921 c 147 § 1; 1919 c 90 § 12; 1909 c 97 p 324 § 1; RRS § 4941; prior: 1907 c 240 § 7 1/2; 1907 c 101 § 1; 1903 c 153 § 1; 1897 c 118 § 117; 1890 p 45 § 1. Formerly RCW 28.51.010, 28.51.050, part.]

Severability—**Effective date**—1970 ex.s. c 42: See notes following RCW 39.36.015.

Validation—1969 c 142: See RCW 39.36.900.

Chapter 28A.57

ORGANIZATION AND REORGANIZATION OF SCHOOL DISTRICTS

Sections

| | |
|------------|---|
| 28A.57.312 | Directors—Elections—Terms—Number. |
| 28A.57.328 | Directors—Number and terms of in new second class districts. |
| 28A.57.355 | Directors—Number and terms of in first class districts containing no former first class district. |
| 28A.57.356 | Directors—Number and terms of in first class districts containing only one former first class district. |
| 28A.57.357 | Directors—Number and terms of in first class districts containing more than one former first class district. |
| 28A.57.358 | Directors—Number and terms of in new first class district having city with population of 400,000 people in class AA counties. |

28A.57.312 Directors—Elections—Terms—Number. The governing board of a school district shall be known as the board of directors of the district.

Unless otherwise specifically provided, as in RCW 29.13.060, each member of a board of directors shall be elected by ballot by the registered voters of the school district and shall hold office for a term of four years and until a successor is elected and qualified. Terms of school directors shall be staggered, and insofar as possible, not more than a majority of one shall be elected to full terms at any regular election. In case a member or

members of a board of directors are to be elected to fill an unexpired term or terms, the ballot shall specify the term for which each such member is to be elected.

Except for a school district of the first class having within its boundaries a city with a population of four hundred thousand people or more in class AA counties which shall have a board of directors of seven members, the board of directors of every school district of the first class or school district of the second class shall consist of five members. [1980 c 35 § 1; 1980 c 47 § 1. Prior: 1979 ex.s. c 183 § 1; 1979 ex.s. c 126 § 4; 1975 c 43 § 5; 1973 2nd ex.s. c 21 § 1; 1969 c 131 § 8; 1969 ex.s. c 223 § 28A.57.312; prior: 1957 c 67 § 1; 1955 c 55 § 11; 1947 c 266 § 10; Rem. Supp. 1947 § 4693-29; prior: 1909 pp 289, 290 §§ 1,2; RRS §§ 4790, 4791. Formerly RCW 28.57.338, 28.58.080.]

Emergency—1980 c 35: "Section 8 of this 1980 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." [1980 c 35 § 9.] Section 8 of 1980 c 35 is RCW 29.27.080; such section was effective February 28, 1980; the remainder of 1980 c 35 was effective June 12, 1980.

Severability—1980 c 35: "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." [1980 c 35 § 10.]

The above annotations apply to RCW 28A.57.312, 28A.57.328, 28A.57.355, 28A.57.356, 28A.57.357, 28A.57.358, 29.04.170 and 29.27.080.

Emergency—1980 c 47: "This amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately." [1980 c 47 § 4.] The effective date of 1980 c 47 was February 29, 1980.

Severability—1980 c 47: "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." [1980 c 47 § 5.]

The above two annotations apply to RCW 28A.57.312, 28A.57.357 and 28A.57.358.

Effective date—Severability—1979 ex.s. c 183: See notes following RCW 28A.57.342.

Purpose—1979 ex.s. c 126: See RCW 29.04.170(1).

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

28A.57.328 Directors—Number and terms of in new second class districts. Upon the establishment of a new school district of the second class, the directors of the old school districts who reside within the limits of the new district shall meet at the call of the educational service district superintendent and shall constitute the board of directors of the new district. If fewer than five such directors reside in any such new second class school district, they shall become directors of said district, and the educational service district board shall appoint the number of additional directors required to constitute a board of five directors for the new second class district. Vacancies once such a board has been reconstituted shall not be filled unless the number of remaining board members is less than five in a second class district, and such vacancies shall be filled in the manner otherwise provided by law.

Each board of directors so constituted shall proceed at once to organize in the manner prescribed by law and

thereafter shall have all the powers and authority conferred by law upon boards of directors of other districts of the same class. Each initial director shall hold office until his successor is elected and qualified: *Provided*, That the election of the successor shall be held during the second district general election after the initial directors have assumed office. At such election, no more than five directors shall be elected either at large or by director districts, as the case may be, two for a term of two years and three for a term of four years. Directors thereafter elected and qualified shall serve such terms as provided for in RCW 28A.57.312, as now or hereafter amended. [1980 c 35 § 2; 1979 ex.s. c 126 § 5; 1975-'76 2nd ex.s. c 15 § 5. Prior: 1975 1st ex.s. c 275 § 101; 1975 c 43 § 7; 1971 c 67 § 1; 1969 ex.s. c 176 § 137; 1969 ex.s. c 223 § 28A.57.328; prior: 1959 c 268 § 7, part; 1947 c 266 § 24, part; Rem. Supp. 1947 § 4693-43, part. Formerly RCW 28.57.350, part.]

Emergency—Severability—1980 c 35: See notes following RCW 28A.57.312.

Purpose—1979 ex.s. c 126: See RCW 29.04.170(1).

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.57.355 Directors—Number and terms of in first class districts containing no former first class district. Upon the establishment of a new school district of the first class as provided for in RCW 28A.57.342 containing no former first class district, the directors of the old school districts who reside within the limits of the new district shall meet at the call of the educational service district superintendent and shall constitute the board of directors of the new district. If fewer than five such directors reside in such new district, they shall become directors of said district and the educational service district board shall appoint the number of additional directors to constitute a board of five directors for the district. Vacancies, once such a board has been reconstituted, shall not be filled unless the number of remaining board members is less than five, and such vacancies shall be filled in the manner otherwise provided by law.

Each board of directors so constituted shall proceed at once to organize in the manner prescribed by law and thereafter shall have all the powers and authority conferred by law upon boards of directors of first class school districts until the next regular school election in the district at which election their successors shall be elected and qualified. At such election no more than five directors shall be elected either at large or by director districts, as the case may be, two for a term of two years and three for a term of four years: *Provided*, That if such first class district is in a class AA or class A county and contains a city of the first class, two directors shall be elected for a term of three years and three directors shall be elected for a term of six years. [1980 c 35 § 3; 1979 ex.s. c 126 § 6; 1975 1st ex.s. c 275 § 102; 1971 c 67 § 3.]

Emergency—Severability—1980 c 35: See notes following RCW 28A.57.312.

Purpose—1979 ex.s. c 126: See RCW 29.04.170(1).

28A.57.356 Directors—Number and terms of in first class districts containing only one former first class district. Upon the establishment of a new school district of the first class as provided for in RCW 28A.57.342, as now or hereafter amended, containing only one former first class district, the directors of the former first class district and two directors representative of former second class districts selected by a majority of the board members of former second class districts shall meet at the call of the educational service district superintendent and shall constitute the board of directors of the new district. Vacancies, once such a board has been reconstituted, shall not be filled unless the number of remaining board members is less than five, and such vacancies shall be filled in the manner otherwise provided by law.

Each board of directors so constituted shall proceed at once to organize in the manner prescribed by law and thereafter shall have all the powers and authority conferred by law upon boards of directors of first class school districts until the next regular school election in the district at which election their successors shall be elected and qualified. At such election no more than five directors shall be elected either at large or by director districts, as the case may be, two for a term of two years and three for a term of four years: *Provided*, That if such first class district is in a class AA or class A county and contains a city of the first class, two directors shall be elected for a term of three years and three directors shall be elected for a term of six years. [1980 c 35 § 4; 1979 ex.s. c 126 § 7; 1975-'76 2nd ex.s. c 15 § 6. Prior: 1975 1st ex.s. c 275 § 103; 1975 c 43 § 10; 1971 c 67 § 4.]

Emergency—**Severability**—1980 c 35: See notes following RCW 28A.57.312.

Purpose—1979 ex.s. c 126: See RCW 29.04.170(1).

Effective date—**Severability**—1975 c 43: See notes following RCW 28A.57.140.

28A.57.357 Directors—Number and terms of in first class districts containing more than one former first class district. Upon the establishment of a new school district of the first class as provided for in RCW 28A.57.342, as now or hereafter amended, containing more than one former first class district, the directors of the largest former first class district and three directors representative of the other former first class districts selected by a majority of the board members of the former first class districts and two directors representative of former second class districts selected by a majority of the board members of former second class districts shall meet at the call of the educational service district superintendent and shall constitute the board of directors of the new district. Vacancies once such a board has been reconstituted shall not be filled unless the number of remaining board members is less than seven, and such vacancies shall be filled in the manner otherwise provided by law.

Each board of directors so constituted shall proceed at once to organize in the manner prescribed by law and thereafter shall have all of the powers and authority

conferred by law upon boards of first class districts until the next regular school election and until their successors are elected and qualified. At such election other than districts electing directors for six-year terms as provided in RCW 29.13.060, as now or hereafter amended, five directors shall be elected either at large or by director districts, as the case may be, two for a term of two years and three for a term of four years. At such election for districts electing directors for six years other than a district having within its boundaries a city with a population of four hundred thousand people or more in class AA counties and electing directors for six year terms, five directors shall be elected either at large or by director districts, as the case may be, one for a term of two years, two for a term of four years, and two for a term of six years. [1980 c 35 § 5; 1980 c 47 § 2. Prior: 1979 ex.s. c 183 § 4; 1979 ex.s. c 126 § 8; 1975-'76 2nd ex.s. c 15 § 7; prior: 1975 1st ex.s. c 275 § 104; 1975 c 43 § 11; 1973 2nd ex.s. c 21 § 10; 1973 c 19 § 1; 1971 c 67 § 5.]

Emergency—**Severability**—1980 c 35: See notes following RCW 28A.57.312.

Emergency—**Severability**—1980 c 47: See notes following RCW 28A.57.312.

Effective date—**Severability**—1979 ex.s. c 183: See notes following RCW 28A.57.342.

Purpose—1979 ex.s. c 126: See RCW 29.04.170(1).

Effective date—**Severability**—1975 c 43: See notes following RCW 28A.57.140.

28A.57.358 Directors—Number and terms of in new first class district having city with population of 400,000 people in class AA counties. Upon the establishment of a new school district of the first class having within its boundaries a city with a population of four hundred thousand people or more in class AA counties, the directors of the largest former first class district and three directors representative of the other former first class districts selected by a majority of the board members of the former first class districts and two directors representative of former second class districts selected by a majority of the board members of former second class districts shall meet at the call of the educational service district superintendent and shall constitute the board of directors of the new district. Each board of directors so constituted shall proceed at once to organize in the manner prescribed by law and thereafter shall have all the powers and duties conferred by law upon boards of first class districts, until the next regular school election and until their successors are elected and qualified. Such duties shall include establishment of new director districts as provided for in RCW 28A.57.425, as now or hereafter amended. At the next regular school election seven directors shall be elected by director districts, two for a term of two years, two for a term of four years and three for a term of six years. Thereafter their terms shall be as provided in RCW 28A.57.313.

Vacancies once such a board has been reconstituted shall not be filled unless the number of remaining board members is less than seven, and such vacancies shall be filled in the manner otherwise provided by law. [1980 c 35 § 6; 1980 c 47 § 3. Prior: 1979 ex.s. c 183 § 5; 1979

ex.s. c 126 § 9; 1975-'76 2nd ex.s. c 15 § 8; prior: 1975 1st ex.s. c 275 § 105; 1975 c 43 § 12; 1973 2nd ex.s. c 21 § 4; 1971 c 67 § 6.]

Emergency—Severability—1980 c 35: See notes following RCW 28A.57.312.

Emergency—Severability—1980 c 47: See notes following RCW 28A.57.312.

Effective date—Severability—1979 ex.s. c 183: See notes following RCW 28A.57.342.

Purpose—1979 ex.s. c 126: See RCW 29.04.170(1).

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

Directors—First class districts having city with population of 400,000 people in class AA counties—Terms: RCW 28A.57.313.

Chapter 28A.58

PROVISIONS APPLICABLE TO ALL SCHOOL DISTRICTS

Sections

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| 28A.58.033 | Surplus school property, rental, lease or use of— Authorized—Limitations. |
| 28A.58.034 | Surplus school property, rental, lease or use of— Joint use—Compensation—Conditions generally. |
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| 28A.58.100 | Hiring and discharging employees—Leaves for em- ployees—Seniority and leave benefits, retention upon transfers between schools. |
| 28A.58.1011 | Government of schools, pupils, employees, rules and regulations for—Aim—Exclusion of student by teacher—Written procedures developed for ad- ministering discipline, scope. |
| 28A.58.125 | Interscholar athletic and other extracurricular activi- ties for students, regulation of—Delegation, conditions. |
| 28A.58.135 | Advertising for bids—Competitive bid proce- dures—Telephone or written quotation sollicita- tion, limitations—Emergencies. |
| 28A.58.201 | Principal to assure appropriate student discipline— Building discipline standards, conferences on. |
| 28A.58.535 | Educational and career opportunities in the military, student access to information on, when. |

28A.58.033 Surplus school property, rental, lease or use of—Authorized—Limitations. (1) Every school district board of directors is authorized to permit the rental, lease, or occasional use of all or any portion of any surplus real property owned or lawfully held by the district to any person, corporation, or government entity for profit or nonprofit, commercial or noncommercial purposes: *Provided*, That the leasing or renting or use of such property is for a lawful purpose, is in the best interest of the district, and does not interfere with conduct of the district's educational program and related activities: *Provided further*, That the lease or rental agreement entered into shall include provisions which permit the recapture of the leased or rented surplus property of

the district should such property be needed for school purposes in the future.

(2) Authorization to rent, lease or permit the occasional use of surplus school property under this section, RCW 28A.58.034 and 28A.58.040 is conditioned on the establishment by each school district board of directors of a policy governing the use of surplus school property. [1980 c 115 § 2.]

Severability—1980 c 115: See note following RCW 28A.58.040.

28A.58.034 Surplus school property, rental, lease or use of—Joint use—Compensation—Conditions generally. (1) Authorization to rent, lease, or permit the occasional use of surplus school property under RCW 28A.58.033 may include the joint use of school district property, which is in part used for school purposes, by any combination of persons, corporations or government entities for other than common school purposes: *Provided*, That any such joint use shall comply with existing local zoning ordinances.

(2) Authorization to rent, lease, or permit the occasional use of surplus school property under RCW 28A.58.033 shall be conditioned on the payment by all users, lessees or tenants, assessed on a basis that is non-discriminatory within classes of users, of such reasonable compensation and under such terms as regulations adopted by the board of directors shall provide.

(3) Nothing in RCW 28A.58.033 and 28A.58.040 shall prohibit a school board of directors and a lessee or tenant from agreeing to conditions to the lease otherwise lawful, including conditions of reimbursement or partial reimbursement of costs associated with the lease or rental of the property. [1980 c 115 § 3.]

Severability—1980 c 115: See note following RCW 28A.58.040.

28A.58.035 Surplus school property, rental, lease or use of—Disposition of moneys received from. Each school district's board of directors shall deposit moneys derived from the lease, rental or occasional use of surplus school property into the district's building fund except for moneys required to be expended for general maintenance, utility, insurance costs, and any other costs associated with the lease or rental of such property, which moneys shall be deposited in the district's general fund. [1980 c 115 § 4.]

Severability—1980 c 115: See note following RCW 28A.58.040.

28A.58.036 Surplus school property, rental, lease or use of—Existing contracts not impaired. The provisions of contracts for the use, rental or lease of school district real property executed prior to June 12, 1980, which were lawful at the time of execution shall not be impaired by such new terms and conditions to the rental, lease or occasional use of school property as may now be established by RCW 28A.58.033, 28A.58.034 and 28A.58.040. [1980 c 115 § 5.]

Severability—1980 c 115: See note following RCW 28A.58.040.

28A.58.037 Surplus school property, rental, lease or use of—Community use not impaired. Nothing in

RCW 28A.58.033 through 28A.58.036 shall preclude school district boards of directors from making available school property for community use in accordance with the provisions of RCW 28A.58.048, 28A.58.105 or 28A.60.190, and school district administrative policy governing such use. [1980 c 115 § 6.]

Severability—1980 c 115: See note following RCW 28A.58.040.

28A.58.040 Conveyance and acquisition of property—Management. The board of directors of each school district shall have exclusive control of all school property, real or personal, belonging to the district; said board shall have power, subject to RCW 28A.58.045, in the name of the district, to convey by deed all the interest of their district in or to any real property of the district which is no longer required for school purposes. Except as otherwise specially provided by law, and RCW 28A.58.045, the board of directors of each school district may purchase, lease, receive and hold real and personal property in the name of the district, and rent, lease or sell the same, and all conveyances of real estate made to the district shall vest title in the district. [1980 c 115 § 1; 1969 ex.s. c 223 § 28A.58.040. Prior: (i) 1947 c 266 § 6, part; Rem. Supp. 1947 § 4693–25, part; prior: 1909 p 265 § 2, part. Formerly RCW 28.57.135, part. (ii) 1969 c 53 § 1, part; 1967 ex.s. c 29 § 1, part; 1967 c 12 § 1, part; 1965 ex.s. c 49 § 1, part; 1963 c 104 § 1, part; 1963 c 5 § 1, part; 1961 c 305 § 1, part; 1961 c 237 § 1, part; 1961 c 66 § 1, part; 1955 c 68 § 2, part. Formerly RCW 28.58.100(3) and (5), part. (iii) 1909 c 97 p 287 § 7, part; RRS 54.782, part; prior: 1897 c 118 § 44, part; 1891 c 127 § 11, part; 1890 p 366 § 30, part. Formerly RCW 28.58.040.]

Severability—1980 c 115: "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." [1980 c 115 § 9.] This applies to RCW 28A.58.033, 28A.58.034, 28A.58.035, 28A.58.036, 28A.58.037, 28A.58.040 and 79.01.770.

28A.58.097 Employee attendance incentive program—Remuneration for unused sick leave. A new attendance incentive program for all certificated and noncertificated employees of a school district is hereby created, and every school district board of directors shall establish and maintain such a program in the following manner. In January of the year following any year in which a minimum of sixty days of leave for illness or injury is accrued, and each January thereafter, any eligible employee may exercise an option to receive remuneration for unused leave for illness or injury accumulated in the previous year at a rate equal to one day's monetary compensation of the employee for each four full days of accrued leave for illness or injury in excess of sixty days. Leave for illness or injury for which compensation has been received shall be deducted from accrued leave for illness or injury at the rate of four days for every one day's monetary compensation: *Provided*, That no employee may receive compensation under this section for any portion of leave for illness or injury accumulated at a rate in excess of one day per month.

At the time of separation from school district employment due to retirement or death an eligible employee or the employee's estate shall receive remuneration at a rate equal to one day's current monetary compensation of the employee for each four full days accrued leave for illness or injury: *Provided*, That an employee shall be entitled to all the benefits conferred by this section as of June 12, 1980, but the district may, in its discretion, delay payments due upon retirement or death, with interest at the rate of eight percent per year, to an eligible employee or the employee's estate until September 1, 1981.

Moneys received under this section shall not be included for the purposes of computing a retirement allowance under any public retirement system in this state.

The superintendent of public instruction in its administration hereof, shall promulgate uniform rules and regulations to carry out the purposes of this section.

Should the legislature revoke any benefits granted under this section, no affected employee shall be entitled thereafter to receive such benefits as a matter of contractual right. [1980 c 182 § 5.]

Severability—1980 c 182: See note following RCW 41.04.340.

28A.58.100 Hiring and discharging employees—Leaves for employees—Seniority and leave benefits, retention upon transfers between schools. Every board of directors, unless otherwise specially provided by law, shall:

(1) Employ for not more than one year, and for sufficient cause discharge all certificated and noncertificated employees, and fix, alter, allow and order paid their salaries and compensation;

(2) Adopt written policies granting leaves to persons under contracts of employment with the school district(s) in positions requiring either certification or noncertification qualifications, including but not limited to leaves for attendance at official or private institutes and conferences and sabbatical leaves for employees in positions requiring certification qualification, and leaves for illness, injury, bereavement and, emergencies for both certificated and noncertificated employees, and with such compensation as the board of directors prescribe: *Provided*, That the board of directors shall adopt written policies granting to such persons annual leave with compensation for illness, injury and emergencies as follows:

(a) For such persons under contract with the school district for a full year, at least ten days;

(b) For such persons under contract with the school district as part time employees, at least that portion of ten days as the total number of days contracted for bears to one hundred eighty days;

(c) For certificated and noncertificated employees, annual leave with compensation for illness, injury, and emergencies shall be granted and accrue at a rate not to exceed twelve days per year; provisions of any contract in force on June 12, 1980, which conflict with requirements of this subsection shall continue in effect until contract expiration; after expiration, any new contract executed between the parties shall be consistent with this subsection;

(d) Compensation for leave for illness or injury actually taken shall be the same as the compensation such person would have received had such person not taken the leave provided in this proviso;

(e) Leave provided in this proviso not taken shall accumulate from year to year and such accumulated time may be taken at any time during the school year but for purposes of payments for unused sick leave shall not exceed twelve days per year;

(f) Sick leave heretofore accumulated under section 1, chapter 195, Laws of 1959 (former RCW 28.58.430) and sick leave accumulated under administrative practice of school districts prior to the effective date of section 1, chapter 195, Laws of 1959 (former RCW 28.58.430) is hereby declared valid, and shall be added to leave for illness or injury accumulated under this proviso;

(g) Any leave for injury or illness accumulated up to a maximum of forty-five days shall be creditable as service rendered for the purpose of determining the time at which an employee is eligible to retire, if such leave is taken it may not be compensated under the provisions of RCW 28A.58.097 and 28A.21.360;

(h) Accumulated leave under this proviso shall be transferred to and from one district to another, the office of superintendent of public instruction and offices of educational service district superintendents and boards, to and from such districts and such offices;

(i) Leave accumulated by a person in a district prior to leaving said district may, under rules and regulations of the board, be granted to such person when he returns to the employment of the district.

When any teacher or other certificated employee leaves one school district within the state and commences employment with another school district within the state, he shall retain the same seniority, leave benefits and other benefits that he had in his previous position. If the school district to which the person transfers has a different system for computing seniority, leave benefits, and other benefits, then the employee shall be granted the same seniority, leave benefits and other benefits as a person in that district who has similar occupational status and total years of service. [1980 c 182 § 4; 1975 1st ex.s. c 275 § 108; 1972 ex.s. c 10 § 3. Prior: 1971 ex.s. c 203 § 1; 1971 c 48 § 28; 1969 ex.s. c 283 § 27; 1969 ex.s. c 223 § 28A.58.100; prior: (i) 1969 c 53 § 1, part; 1967 ex.s. c 29 § 1, part; 1967 c 12 § 1, part; 1965 ex.s. c 49 § 3, part; 1963 c 104 § 1, part; 1963 c 5 § 1, part; 1961 c 305 § 1, part; 1961 c 237 § 1, part; 1961 c 66 § 1, part; 1955 c 68 § 2, part; prior: 1943 c 52 § 1, part; 1941 c 179 § 1, part; 1939 c 131 § 1, part; 1925 ex.s. c 57 § 1, part; 1919 c 89 § 3, part; 1915 c 44 § 1, part; 1909 c 97 p 285 § 2, part; 1907 c 240 § 5, part; 1903 c 104 § 17, part; 1901 c 41 § 3, part; 1897 c 118 § 40, part; 1890 p 364 § 26, part; Rem. Supp. 1943 § 4776, part. Formerly RCW 28.58.100(1) and (3), part, and (15). (ii) 1965 ex.s. c 49 § 3. Formerly RCW 28.67.076.]

Severability—1980 c 182: See note following RCW 41.04.340.

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

28A.58.1011 Government of schools, pupils, employees, rules and regulations for—Aim—Exclusion of student by teacher—Written procedures developed for administering discipline, scope. (1) The rules adopted pursuant to RCW 28A.58.101 shall be interpreted to insure that the optimum learning atmosphere of the classroom is maintained, and that the highest consideration is given to the judgment of qualified certificated educators regarding conditions necessary to maintain the optimum learning atmosphere.

(2) Any student who creates a disruption of the educational process in violation of the building disciplinary standards while under a teacher's immediate supervision may be excluded by the teacher from his or her individual classroom and instructional or activity area for all or any portion of the balance of the school day or until the principal or designee and teacher have conferred, whichever occurs first: *Provided*, That except in emergency circumstances, the teacher shall have first attempted one or more alternative forms of corrective action: *Provided further*, That in no event without the consent of the teacher shall an excluded student be returned during the balance of that class or activity period.

(3) In order to preserve a beneficial learning environment for all students and to maintain good order and discipline in each classroom, every school district board of directors shall provide that written procedures are developed for administering discipline at each school within the district. Such procedures shall be developed with the participation of parents and the community, and shall provide that the teacher, principal or designee, and other authorities designated by the board of directors, make every reasonable attempt to involve the parent or guardian and the student in the resolution of student discipline problems. Such procedures shall provide that students may be excluded from their individual classes or activities for periods of time in excess of that provided in subsection (2) of this section if such students have repeatedly disrupted the learning of other students: *Provided*, That the procedures are consistent with the regulations of the state board of education and provide for early involvement of parents in attempts to improve the student's behavior: *Provided further*, That pursuant to RCW 28A.58.201, the procedures shall assure that all staff work cooperatively toward consistent enforcement of proper student behavior throughout each school as well as within each classroom. [1980 c 171 § 1; 1972 ex.s. c 142 § 5.]

28A.58.125 Interschool athletic and other extracurricular activities for students, regulation of—Delegation, conditions.

School buses, transport of general public to interscholastic activities—Limitations: RCW 28A.24.175.

28A.58.135 Advertising for bids—Competitive bid procedures—Telephone or written quotation solicitation, limitations—Emergencies. (1) When, in the opinion of the board of directors of any school district, the cost of any furniture, supplies, equipment, building, improvements, or repairs, or other work or purchases,

except books, will equal or exceed the sum of ten thousand dollars, complete plans and specifications for such work or purchases shall be prepared and notice by publication given in at least one newspaper of general circulation within the district, once each week for two consecutive weeks, of the intention to receive bids therefor and that specifications and other information may be examined at the office of the board or any other officially designated location: *Provided*, That the board without giving such notice may make improvements or repairs to the property of the district through the shop and repair department of such district when the total of such improvements or repair does not exceed the sum of forty-five hundred dollars. The cost of any public work, improvement or repair for the purposes of this section shall be the aggregate of all amounts to be paid for labor, material, and equipment on one continuous or interrelated project where work is to be performed simultaneously or in close sequence. The bids shall be in writing and shall be opened and read in public on the date and in the place named in the notice and after being opened shall be filed for public inspection.

(2) Every purchase of furniture, equipment or supplies, except books, the cost of which is estimated to be in excess of forty-five hundred dollars, shall be on a competitive basis. The board of directors shall establish a procedure for securing telephone and/or written quotations for such purchases. Whenever the estimated cost is from forty-five hundred dollars up to ten thousand dollars, the procedure shall require quotations from at least three different sources to be obtained in writing or by telephone, and recorded for public perusal. Whenever the estimated cost is in excess of ten thousand dollars, the public bidding process provided in subsection (1) of this section shall be followed.

(3) Every building, improvement, repair or other public works project, the cost of which is estimated to be in excess of forty-five hundred dollars, shall be on a competitive bid process. All such projects estimated to be less than ten thousand dollars may be awarded to a contractor on the small works roster. The small works roster shall be comprised of all responsible contractors who have requested to be on the list. The board of directors shall establish a procedure for securing telephone and/or written quotations from the contractors on the small works roster to assure establishment of a competitive price and for awarding contracts to the lowest responsible bidder. Such procedure shall require that a good faith effort be made to request quotations from all contractors on the small works roster who have indicated the capability of performing the kind of public works being contracted. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry. The small works roster shall be revised at least once each year by publishing notice of such opportunity in at least one newspaper of general circulation in the district. Responsible contractors shall be added to the list at any time they submit a written request. Whenever the estimated cost of a public works project is ten thousand

dollars or more, the public bidding process provided in subsection (1) of this section shall be followed.

(4) The contract for the work or purchase shall be awarded to the lowest responsible bidder as defined in RCW 43.19.1911: *Provided*, That when bids have been solicited in the manner provided for in subsections (2) or (3) of this section and there is reason to believe that the lowest acceptable bid is not the best obtainable, all bids may be rejected, and the board may call for new bids. Any or all bids may be rejected for good cause. On any work or purchase the board shall provide bidding information to any qualified bidder or his agent, requesting it in person.

(5) In the event of any emergency when the public interest or property of the district would suffer material injury or damage by delay, upon resolution of the board declaring the existence of such an emergency and reciting the facts constituting the same, the board may waive the requirements of this section with reference to any purchase or contract: *Provided*, That an "emergency", for the purposes of this section, means a condition likely to result in immediate physical injury to persons or to property of the school district in the absence of prompt remedial action. [1980 c 61 § 1; 1975-'76 2nd ex.s. c 26 § 1; 1969 ex.s. c 49 § 2; 1969 ex.s. c 223 § 28A.58.135. Prior: 1961 c 224 § 1. Formerly RCW 28.58.135.]

28A.58.201 Principal to assure appropriate student discipline—Building discipline standards, conferences on. Within each school the school principal shall determine that appropriate student discipline is established and enforced. In order to assist the principal in carrying out the intent of this section, the principal and the certificated employees in a school building shall confer at least annually in order to develop and/or review building disciplinary standards and uniform enforcement of those standards. Such building standards shall be consistent with the provisions of RCW 28A.58.1011(3). [1980 c 171 § 2; 1975-'76 2nd ex.s. c 97 § 3.]

28A.58.535 Educational and career opportunities in the military, student access to information on, when. If the board of directors of a school district provides access to the campus and the student information directory to persons or groups which make students aware of occupational or educational options, the board shall provide access on the same basis to official recruiting representatives of the military forces of the state and the United States for the purpose of informing students of educational and career opportunities available in the military. [1980 c 96 § 1.]

Chapter 28A.60

PROVISIONS APPLICABLE ONLY TO SECOND AND THIRD CLASS DISTRICTS

Sections

28A.60.355 Repealed.

28A.60.355 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 28A.65
SCHOOL DISTRICT BUDGETS

Sections

28A.65.405 Districts must utilize methods of revenue and expenditure recognition.

28A.65.405 Districts must utilize methods of revenue and expenditure recognition. All school districts must utilize the following methods of revenue and expenditure recognition in budgeting, accounting and financial reporting:

(1) Recognize revenue as defined in RCW 28A.65.400(1) for all funds.

(2) Utilize the accrual basis for the recognition of expenditures in determining operating costs from the general fund: *Provided*, That school districts with less than one thousand full time equivalent students for the previous year may utilize the cash basis for the recognition of expenditures in determining operating costs from the general fund: *Provided further*, That in school districts with less than one thousand full time equivalent students a list of accounts payable shall be prepared, as at the end of the fiscal year, subject to the penalties of perjury, a copy of which will accompany the districts' annual report and a copy of which will be filed with the districts' board of directors.

(3) Utilize the accrual basis for the recognition of expenditures in determining the costs of site acquisitions and the construction of buildings from the building fund: *Provided*, That school districts with less than one thousand full time equivalent students for the previous year may utilize the cash basis for recognition of expenditures in determining the costs of site acquisitions and the construction of buildings from the building fund.

(4) Utilize the accrual basis for the recognition of expenditures in determining costs for bond interest and redemption funds, refunding bond funds and refunded bond funds based upon when bond interest and bond redemptions become due: *Provided*, That school districts with an average of less than one thousand full time equivalent students during the previous school year may utilize the cash basis for recognition of expenditures in determining the costs of bond fund interest and redemptions, refunding bonds and refunded bonds from the bond interest and redemption funds, refunding bond funds and refunded bond funds.

(5) Utilize the accrual basis for the recognition of expenditures in determining costs for permanent insurance funds.

(6) Utilize the accrual basis of expenditure recognition for the associated student body program fund: *Provided*, That school districts with less than one thousand full time equivalent students for the previous fiscal year may utilize the cash basis for recognition of expenditures in determining operating costs of the associated student body program fund. [1980 c 18 § 1; 1975-'76 2nd ex.s. c 118 § 2.]

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.65.400.

Chapter 28A.91
WASHINGTON STATE PUBLIC BROADCASTING COMMISSION

(Formerly: Washington state educational television commission)

Sections

28A.91.010 through 28A.91.060 Repealed.
28A.91.100 Definitions.
28A.91.110 Commission—Created—Members—
Terms—Office—Compensation.
28A.91.120 Commission powers and duties—Generally.
28A.91.130 Executive secretary—Staff.
28A.91.900 Severability—1980 c 123.

Reviser's note—Sunset Act application: The Washington state public broadcasting commission is subject to review, termination and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.240.

State educational television commission abolished—Transfer procedure—1980 c 123: "The state educational television commission is hereby abolished. All reports, documents, surveys, books, records, files, papers, or other writings in the possession of the state educational television commission, and pertaining to the functions affected by this act, shall be delivered to the custody of the state public broadcasting commission. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed in carrying out the powers and duties transferred by this act shall be made available to the state public broadcasting commission. All funds, credits, or other assets held in connection with the functions transferred by this act shall be assigned to the state public broadcasting commission.

Any appropriations made to the state educational television commission for the purpose of carrying out the powers and duties transferred by this act, shall, on the effective date of this act, be transferred and credited to the state public broadcasting commission for the purpose of carrying out such transferred powers and duties.

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 this act, the director of financial management shall make a determination as to the proper allocation and certify the same to the state departments and agencies concerned." [1980 c 123 § 8.] The effective date of this act, 1980 c 123, was June 12, 1980.

Apportionment of budgeted funds if necessitated by transfers—1980 c 123: "If apportionments of budgeted funds are required because of the transfers authorized by this act, the director of financial management shall certify such apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with such certification." [1980 c 123 § 9.]

Transfer not to affect rules and regulations, pending business, existing contracts and obligations—Validation of prior actions—1980 c 123: "All rules and regulations of, and all pending business before the state educational television commission on the effective date of this act, shall be continued and acted upon by the state public broadcasting commission. All existing contracts and obligations of the state educational television commission on the effective date of this act shall remain in full force and effect and shall be performed by the state public broadcasting commission. The transfer of powers, duties or functions under this act shall not affect the validity of any act performed by any officer or employee of the state educational television commission prior to the effective date of this act. Nothing in this act shall be construed to affect any actions, activities or proceedings validated under the sections repealed herein nor as affecting any criminal or civil proceedings instituted thereunder nor any administrative action taken thereunder." [1980 c 123 § 10.] Sections repealed by 1980 c 123 are RCW 28A.91.010, 28A.91.020, 28A.91.030, 28A.91.040, 28A.91.050 and 28A.91.060. The effective date of this act, 1980 c 123, was June 12, 1980.

Appropriation—1980 c 123: "There is hereby appropriated from the state general fund for the biennium ending June 30, 1981, to the Washington State Public Broadcasting Commission, the sum of fifty-five thousand dollars for the purposes of this 1980 act: *Provided*, That

any moneys so appropriated may also be used for matching federal grants." [1980 c 123 § 11.]

28A.91.010 through 28A.91.060 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.91.100 Definitions. As used in this chapter, the terms defined in this section shall have the following meanings unless the context clearly requires otherwise:

(1) "Broadcast" or "broadcasting" means television or radio transmission.

(2) "Broadcast operational costs" means all expenses incurred by a noncommercial educational broadcast station for the basic operation, maintenance, and administration functions of such station, except that such expenses shall not include costs for program production or acquisition, fund raising activities, or membership services.

(3) "Cable television" means the transmission of programming by community antenna distribution systems.

(4) "Commission" means the Washington State Public Broadcasting Commission created in RCW 28A.91.110.

(5) "Educational broadcasting" means produced, leased or purchased programming designed to informally raise the general awareness of the public.

(6) "Instructional broadcasting" means produced, leased or purchased programming for broadcast to classrooms or elsewhere as instruction within a curriculum.

(7) "Public broadcast station" means a television or radio broadcast station which, under the rules and regulations of the Federal Communications Commission in effect on June 12, 1980, is eligible to be licensed by the Federal Communications Commission as a noncommercial educational radio or television broadcast station and which is owned and operated by a public agency or non-profit private foundation, corporation, or association.

(8) "Public broadcasting" means noncommercial instructional and educational radio and television broadcasting. [1980 c 123 § 2.]

Sunset Act application: See note following chapter digest.

28A.91.110 Commission—Created—Members—Terms—Office—Compensation. (1) There is hereby created a state agency to be known as the Washington State Public Broadcasting Commission.

(2) The commission shall consist of nine members to be appointed by the governor, broadly representative of the people of the state, and approved by the senate: *Provided*, That one member of the commission shall be from the commercial broadcasting sector.

(3) Members shall serve four year terms, except that the initial terms of the first members shall be as follows: Three members for two year terms, three members for three year terms, and three members for four year terms, as so designated by the governor at the time of appointment.

(4) Members of the commission shall not be compensated for their services but shall be reimbursed for travel

expenses in accordance with RCW 43.03.050 and 43.03.060, as now or hereafter amended.

(5) The commission shall be housed in the office of the state planning and community affairs agency.

Ex officio members shall not be compensated or reimbursed for travel by the commission. [1980 c 123 § 3.]

Sunset Act application: See note following chapter digest.

28A.91.120 Commission powers and duties—Generally. In addition to other powers and duties as set forth in this chapter, the commission shall:

(1) Cooperate with state agencies owning broadcast sites or electronic equipment and/or other real or personal property for the purpose of sharing in the use and/or cost of any such property in order to facilitate the development of state public broadcasting capabilities.

(2) Prepare, adopt as a commission rule, and amend as necessary, a plan setting forth the goals of public broadcasting in the state which are in support of the philosophy set forth in *section 1 of this act.

(3) Consult with the governing boards of public broadcasting licensees in regard to such policies and practices as are necessary to implement planning and maintaining a state system for public broadcasting.

(4) Appoint ex officio members representative of the following: Public television broadcasters, public radio broadcasters, common schools, community colleges, private four year colleges and universities, private elementary/secondary schools, commercial broadcasters, public four year colleges and universities, and such other agencies as determined appropriate by the commission.

(5) Appoint advisory committees.

(6) Allocate funds in accordance with the procedures established by *sections 6 and 7 of this act.

(7) Act as the state reviewing agency for public broadcasting in accordance with criteria established by the commission.

(8) Appoint consultants, enter into contracts, and conduct studies as reasonably necessary to carry out the provisions of this chapter.

(9) Coordinate requests for state legislative funding of public broadcasting.

(10) Perform other duties necessary to carry out the provisions of this chapter and to provide a coordination and advocacy agency for state matters relating to public broadcasting.

(11) Carry out its purposes and functions and engage in its activities in ways that will most effectively assure the maximum freedom of the public broadcasting licensees from interference with, or control of, program content or other activities.

(12) Promulgate rules to implement this chapter, in accordance with the provisions of chapter 34.04 RCW, as now or hereafter amended:

Provided, That the commission is prohibited from owning or operating any television or radio broadcast station or program production facility and producing programs, scheduling programs for dissemination, or disseminating programs to the public. [1980 c 123 § 4.]

***Reviser's note:** References to "section 1 of this act" and "sections 6 and 7 of this act", the act being 1980 c 123, are superfluous matter because said sections 1, 6 and 7 were vetoed by the Governor before signing remainder of the act.

Sunset Act application: See note following chapter digest.

28A.91.130 Executive secretary—Staff. The commission may employ an executive secretary and such clerical staff and other personnel as are necessary to carry out the duties prescribed by the commission. The executive secretary shall be exempt from the provisions of chapter 41.06 RCW, shall serve at the pleasure of the commission, and shall receive a salary fixed by the commission. [1980 c 123 § 5.]

Sunset Act application: See note following chapter digest.

28A.91.900 Severability—1980 c 123. 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. [1980 c 123 § 15.]

Sunset Act application: See note following chapter digest.

Chapter 28A.92 COMPACT FOR EDUCATION

Sections

28A.92.030 State representation on education commission—
Terms of appointed members—Filling vacancies.

28A.92.030 State representation on education commission—Terms of appointed members—Filling vacancies. The term of the members appointed by the president and the speaker shall be dependent upon continued membership in the house from which appointed and shall expire upon the adjournment sine die of the regular session of the legislature during an odd-numbered year next succeeding the appointment of such member. Vacancies occurring during the term shall be filled for the unexpired term by the appointment of a successor in the same manner as for the vacating member. Members appointed by the governor shall serve at his pleasure. [1980 c 87 § 7; 1969 ex.s. c 223 § 28A.92.030. Prior: 1967 c 83 § 3. Formerly RCW 28.92.030.]

Chapter 28A.97 EDUCATIONAL CLINICS

Sections

28A.97.100 Report to legislature detailing fiscal impact of educational clinics—Information clinics must furnish therefor.

28A.97.100 Report to legislature detailing fiscal impact of educational clinics—Information clinics must furnish therefor. The legislative budget committee shall prepare a report to the legislature before each regular session during an odd-numbered year, detailing the fiscal impact of the several certified educational clinics receiving reimbursements from the state pursuant to the

provisions of this chapter. The legislative budget committee shall require such clinics to furnish such information as it deems necessary to meet the requirements of this section. Included within the information to be reported by the legislative budget committee on each clinic shall be the following:

(1) The dollar amount of reimbursement received by the clinic from the state for each month available of the then current, and past, biennium;

(2) An analysis of the cost per student, the progress they have achieved, and comparisons with other educational and institutional alternatives; and

(3) A statement which identifies the owners of the clinic. In the case of profit or nonprofit corporations the officers, directors, and shareholders of record as of the close of the corporation's fiscal year shall be furnished. [1980 c 87 § 8; 1979 ex.s. c 174 § 3.]

Severability—1979 ex.s. c 174: See note following RCW 28A.97.020.

Title 28B HIGHER EDUCATION

Chapters

- 28B.05 Educational services registration act.
- 28B.10 Colleges and universities generally.
- 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.35 Regional universities.
- 28B.40 The Evergreen State College.
- 28B.50 Community college act of 1967
(and community colleges generally).

Chapter 28B.05 EDUCATIONAL SERVICES REGISTRATION ACT

Sections

28B.05.040 Exempted education and institutions.

28B.05.040 Exempted education and institutions. The following education and institutions are exempted from the provisions of this chapter:

(1) Education sponsored by bona fide trade, business, professional, or fraternal organizations primarily for that organization's membership or offered by that organization on a no-fee basis;

(2) Education solely avocational or recreational in nature and institutions offering such education exclusively;

(3) Education offered by charitable institutions, organizations, or agencies: *Provided*, That such education is not advertised or promoted as leading toward educational credentials;

(4) Institutions that are established, operated, and governed by this state or its political subdivisions under the provisions of Titles 28A, 28B and 28C RCW;

(5) Institutions that have been accredited by any accrediting association recognized by the agency for the purposes of *this act: *Provided*, That an institution, branch, extension or facility operating within the state of Washington which is affiliated with an institution operating in another state must be a separately accredited member institution of any such accrediting association to qualify for this exemption.

(6) Any other institution to the extent that it has been exempted from some or all of the provisions of this chapter in accordance with the hardship exemption procedure in RCW 28B.05.130.

(7) Institutions not otherwise exempt that are of a religious character, but only as to those education programs exclusively devoted to religious or theological objectives, and that are represented in an accurate manner in institutional catalogs or other official publications.

(8) Educational institutions that are certified by the Federal Aviation Administration under 14 CFR 141 and those educational institutions certified under 14 CFR 61 which offer instruction solely for avocational or recreational purposes. [1980 c 82 § 1; 1979 ex.s. c 188 § 4.]

*Reviser's note: For RCW section disposition of this act, 1979 ex.s. c 188, see note following RCW 28B.05.950.

Chapter 28B.10

COLLEGES AND UNIVERSITIES GENERALLY

Sections

| | |
|------------|---|
| 28B.10.360 | Educational and career opportunities in the military, student access to information on, when. |
| 28B.10.565 | Police forces for universities and The Evergreen State College—Penalty. (Effective until January 1, 1981.) |
| 28B.10.565 | Police forces for universities and The Evergreen State College—Penalty. (Effective January 1, 1981.) |
| 28B.10.790 | State student financial aid program—Certain residents attending college or university in another state, applicability to—Authorization. |
| 28B.10.792 | State student financial aid program—Certain residents attending college or university in another state, applicability to—Guidelines. |

Governing body of recognized student association at college or university, open public meetings act applicable to: RCW 42.30.200.

28B.10.360 Educational and career opportunities in the military, student access to information on, when. If a public institution of higher education provides access to the campus and the student information directory to persons or groups which make students aware of occupational or educational options, the institution of higher education shall provide access on the same basis to official recruiting representatives of the military forces of the state and the United States for the purpose of informing students of educational and career opportunities available in the military. [1980 c 96 § 2.]

28B.10.565 Police forces for universities and The Evergreen State College—Penalty. (Effective until

January 1, 1981.) Any person violating a rule or regulation promulgated in conformity with the provisions of RCW 28B.10.560, shall be guilty of a misdemeanor and the courts of justice of the peace in the county in which the offense is committed shall have jurisdiction over such offense. [1969 ex.s. c 223 § 28B.10.565. Prior: 1949 c 123 § 4; Rem. Supp. 1949 § 4543–19. Formerly RCW 28.76.340.]

28B.10.565 Police forces for universities and The Evergreen State College—Penalty. (Effective January 1, 1981.) Any person violating a rule or regulation promulgated in conformity with the provisions of RCW 28B.10.560, shall be guilty of a misdemeanor, and the courts of justice of the peace in the county in which the offense is committed shall have jurisdiction over such offense: *Provided*, That violation of a rule or regulation relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of a rule or regulation equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor. [1979 ex.s. c 136 § 22; 1969 ex.s. c 223 § 28B.10.565. Prior: 1949 c 123 § 4; Rem. Supp. 1949 § 4543–19. Formerly RCW 28.76.340.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

28B.10.790 State student financial aid program—Certain residents attending college or university in another state, applicability to—Authorization. Washington residents attending any nonprofit college or university in another state which has a reciprocity agreement with the state of Washington shall be eligible for the student financial aid program outlined in RCW 28B.10.800 through 28B.10.824 if (1) they qualify as a "needy student" under RCW 28B.10.802(3), and (2) the institution attended is a member institution of an accrediting association recognized by rule of the council for the purposes of this section and is specifically encompassed within or directly affected by such reciprocity agreement and agrees to and complies with program rules and regulations pertaining to such students and institutions adopted pursuant to RCW 28B.10.822. [1980 c 13 § 1.]

Severability—1980 c 13: "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." [1980 c 13 § 3.] This applies to RCW 28B.10.790 and 28B.10.792.

28B.10.792 State student financial aid program—Certain residents attending college or university in another state, applicability to—Guidelines. The council shall develop guidelines for determining the conditions under which an institution can be determined to be directly affected by a reciprocity agreement for the purposes of RCW 28B.10.790: *Provided*, That no institution shall be determined to be directly affected unless students from the county in which the institution is located are provided, pursuant to a reciprocity agreement, access to Washington institutions at resident tuition and fee

rates to the extent authorized by Washington law. [1980 c 13 § 2.]

Severability—1980 c 13: See note following RCW 28B.10.790.

Chapter 28B.15

COLLEGE AND UNIVERSITY FEES

Sections

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| 28B.15.044 | Services and activities fees—Legislative declaration on expenditure. |
| 28B.15.045 | Services and activities fees—Guidelines governing establishment and funding of programs supported by—Scope—Mandatory provisions. |
| 28B.15.740 | Limitation on total tuition and fee waivers—Programs applicable to. |

28B.15.044 Services and activities fees—Legislative declaration on expenditure. It is the intent of the legislature that students will propose initial budgetary recommendations for consideration by the college or university administration to the extent that such budget recommendations are intended to be funded by services and activities fees. It is also the intent of the legislature that services and activities fee expenditures for programs devoted to political or economic philosophies shall result in the presentation of a spectrum of ideas. [1980 c 80 § 1.]

Severability—1980 c 80: "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." [1980 c 80 § 4.] This applies to RCW 28B.15.044 and 28B.15.045.

28B.15.045 Services and activities fees—Guidelines governing establishment and funding of programs supported by—Scope—Mandatory provisions. The boards of trustees and the boards of regents of the respective institutions of higher education shall adopt guidelines governing the establishment and funding of programs supported by services and activities fees. Such guidelines shall spell out procedures for budgeting and expending services and activities fee revenue. Any such guidelines shall be consistent with the following provisions:

(1) Initial responsibility for proposing program priorities and budget levels for that portion of program budgets that derive from services and activities fees shall reside with a services and activities fee committee, on which students shall hold at least a majority of the voting memberships, such student members to be recommended by the student government association or its equivalent. The governing board shall insure that the services and activities fee committee provides an opportunity for all viewpoints to be heard during its consideration of the funding of student programs and activities.

(2) The services and activities fee committee shall evaluate existing and proposed programs and submit budget recommendations for the expenditure of those services and activities fees to the college or university administration.

(3) The college or university administration shall review and publish a written response to the services and

activities fee committee recommendations. This response shall outline areas of difference between the committee recommendations and the administration's proposed budget recommendations.

(4) The college or university administration, at the time it submits its proposed budget recommendations for the expenditure of services and activities fees to the governing board, shall also transmit a copy of the services and activities fee committee recommendations along with any supporting documentation originally provided by the committee and a copy of the administration's response to the committee recommendations. Before adoption of the final budget the governing board shall address areas of difference between the committee recommendations and the administration's budget recommendations presented for adoption by the board. A student representative of the services and activities fee committee shall be given the opportunity to reasonably address the governing board concerning any such differences.

(5) Services and activities fees and revenues generated by programs and activities funded by such fees shall be deposited and expended through the office of the chief fiscal officer of the institution.

(6) Services and activities fees and revenues generated by programs and activities funded by such fees shall be subject to the applicable policies, regulations, and procedures of the institution and the budget and accounting act, chapter 43.88 RCW.

(7) All information pertaining to services and activities fees budgets shall be made available to interested parties. [1980 c 80 § 2.]

Severability—1980 c 80: See note following RCW 28B.15.044.

28B.15.740 Limitation on total tuition and fee waivers—Programs applicable to. (1) The total dollar amount of tuition and fee waivers awarded by any state university, regional university, or state college, shall not exceed four percent of an amount determined by estimating the total collections from tuition, operating, and services and activities fees had no such waivers been made and deducting the portion of that total amount which is attributable to the difference between resident and nonresident fees: *Provided*, That at least three-fourths of the dollars waived shall be for needy or disadvantaged students under the program authorized by RCW 28B.15.530.

(2) The total dollar amount of tuition and fee waivers awarded by all of the community colleges considered as a whole, shall not exceed three percent of an amount determined by estimating the total collections from tuition, operating, and services and activities fees had no such waivers been made and deducting the portion of that total amount which is attributable to the difference between resident and nonresident fees.

(3) The limitations on total tuition and fee waivers provided in subsections (1) and (2) of this section shall apply only to the following programs:

(a) Waivers for needy or disadvantaged students as authorized by RCW 28B.15.530;

(b) Scholarships or waivers for foreign students as authorized by RCW 28B.10.200 and in RCW 28B.15.742: *Provided*, That awards which are a part of a reciprocal placement program based on contracts with institutions in foreign countries shall be exempt from the limitation in subsection (1) of this section; and

(c) Tuition and fee waiver programs authorized by RCW 28B.15.742 and 28B.15.744. [1980 c 62 § 1; 1979 ex.s. c 262 § 1.]

Severability—1979 ex.s. c 262: "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." [1979 ex.s. c 262 § 5.] This applies to RCW 28B.15.740, 28B.15.742 and 28B.15.744.

Chapter 28B.16

STATE HIGHER EDUCATION PERSONNEL LAW

Sections

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.16.110 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 such surveys to be conducted at least in the year prior to the convening of each one hundred five day 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 financial 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.

Salary and fringe benefit survey information collected from private employers which identifies a specific employer with the salary and fringe benefit rates which that employer pays to its employees shall not be subject to public disclosure under chapter 42.17 RCW. [1980 c 11 § 3; 1979 c 151 § 16; 1977 ex.s. c 152 § 10; 1975 1st ex.s. c 122 § 2; 1969 ex.s. c 36 § 11. Formerly RCW 28.75.110.]

Severability—1977 ex.s. c 152: See note following RCW 41.06.150.

Chapter 28B.19

STATE HIGHER EDUCATION ADMINISTRATIVE
PROCEDURE ACT

Sections

| | |
|------------|--|
| 28B.19.033 | Statement of proposed rule's purpose and how implemented—Contents—Distribution by institution. |
| 28B.19.037 | Withdrawal of proposed rules. |
| 28B.19.050 | Rules filed—Register of rules—Effective date of rules—Report of compliance. |
| 28B.19.070 | Compilation, editing, and publication of rules—Removal of unconstitutional rules—Judicial notice. |
| 28B.19.073 | Scope of editing and revision of rules. |
| 28B.19.077 | Format and style of rules amending existing sections, adding new sections—Effect of failure to comply. |

28B.19.033 Statement of proposed rule's purpose and how implemented—Contents—Distribution by institution. (1) For the purpose of legislative review of institution rules filed pursuant to this chapter, any new or amendatory rule proposed after June 12, 1980, shall be accompanied by a statement prepared by the adopting institution which generally describes the rule's purpose and how the rule is to be implemented. Such statement shall be on the institution's stationery or a form bearing the institution's name and shall contain, but is not limited to, the following:

(a) A title, containing a description of the rule's purpose, 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 and a statement of the reasons supporting the proposed action;

(c) The institution personnel, with their office location and telephone number, who are responsible for the drafting, implementation, and enforcement of the rule;

(d) The name of the person or organization, whether private, public, or governmental, proposing the rule, if any;

(e) Institution comments or recommendations, if any, regarding statutory language, implementation, enforcement, and fiscal matters pertaining to the rule;

(f) Whether the rule is necessary as the result of federal law or federal or state court action, and if so, a copy of such law or court decision shall be attached to the purpose statement.

(2) Upon filing notice of the proposed rule with the code reviser, the adopting institution 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. [1980 c 186 § 23.]

Severability—1980 c 186: See note following RCW 34.04.045.

28B.19.037 Withdrawal of proposed rules. (1) A proposed rule may be withdrawn by the proposing institution at any time before adoption. A withdrawn rule may not be adopted unless it is again proposed in accordance with RCW 28B.19.030.

(2) Rules not adopted within one year after publication of the text as last proposed in the register shall be regarded as withdrawn. An institution may not thereafter adopt the text of the rules without filing the text in accordance with RCW 28B.19.030 as now or hereafter amended. The code reviser shall give notice of the withdrawal in the register. [1980 c 186 § 24.]

Severability—1980 c 186: See note following RCW 34.04.045.

28B.19.050 Rules filed—Register of rules—Effective date of rules—Report of compliance. (1) Any rules adopted after September 1, 1971 shall be filed forthwith with the office of the code reviser. The code reviser shall keep a permanent register of such rules open to public inspection.

(2) Emergency rules adopted under RCW 28B.19.040 shall become effective upon filing. All other rules hereafter adopted shall become effective upon the expiration of thirty days after the date of filing, unless a later date is required by statute or specified in the rule.

(3) The code reviser shall report to each regular session of the legislature during an odd-numbered year on the state of compliance of the institutions of higher education with this section. For this purpose, all institutions of higher education shall supply the code reviser with such information as he may request. [1980 c 87 § 9; 1971 ex.s. c 57 § 5.]

28B.19.070 Compilation, editing, and publication of rules—Removal of unconstitutional rules—Judicial notice. (1) The code reviser shall as soon as practicable compile, index, and publish in the Washington administrative code all rules adopted pursuant to this chapter by each institution of higher education and remaining in effect.

(2) The code reviser shall publish a register in which he shall set forth the text of all rules filed during the appropriate register publication period.

(3) The code reviser, in his discretion, may omit from publication in the Washington administrative code or the state register those rules the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient, if such rules are made available in printed or processed form on application to the adopting institution of higher education and if the Washington administrative code states the general subject matter of the rules so omitted and states how copies thereof may be obtained.

(4) The code reviser may edit and revise rules for publication, codification, and compilation, without changing the meaning of any such rule, in accordance with the provisions of RCW 28B.19.073.

(5) When a rule, in whole or in part, is declared invalid and unconstitutional by a court of final appeal, the adopting institution shall give notice to that effect in the register. With the consent of the attorney general, the code reviser may remove obsolete rules or parts of rules from the Washington Administrative Code when:

(a) The rules are declared unconstitutional by a court of final appeal; or

(b) The adopting institution ceases to exist and the rules are not transferred by statute to a successor institution.

(6) Judicial notice shall be taken of rules published pursuant to this section. [1980 c 186 § 25; 1971 ex.s. c 57 § 7.]

Severability—1980 c 186: See note following RCW 34.04.045.

28B.19.073 Scope of editing and revision of rules. Subject to such general policies as may be promulgated by the statute law committee and to the general supervision of the committee, the code reviser shall edit and revise institution rules for consolidation into the Washington Administrative Code, to the extent deemed necessary and desirable by the reviser and without changing the meaning of any such rule, in the following respects only:

(1) Make capitalization uniform with that followed generally in the Washington Administrative Code;

(2) Make chapter or section division and subdivision designations uniform with that followed in the Washington Administrative Code;

(3) Rearrange any misplaced material, incorporate any omitted material as well as correct manifest errors in spelling, manifest clerical or typographical errors, or errors by way of additions or omissions;

(4) Correct manifest errors in references, by chapter or section number, to other laws or rules;

(5) Correct manifest errors or omissions in numbering or renumbering sections of the Washington Administrative Code;

(6) Strike provisions manifestly obsolete. [1980 c 186 § 26.]

Severability—1980 c 186: See note following RCW 34.04.045.

28B.19.077 Format and style of rules amending existing sections, adding new sections—Effect of failure to comply. (1) Rules promulgated by an institution pursuant to RCW 28B.19.030 or 28B.19.040, as now or hereafter amended, 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 may be forwarded by any institution to the code reviser, nor may 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 institution the code reviser need not, except with regard to the register published pursuant to RCW 28B.19.070(2), as now or hereafter amended, 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 institution 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 unless the ineffectual portion of the rule is clearly distinguished and an explanatory note is appended thereto by the code reviser in accordance with RCW 28B.19.070, as now or hereafter amended, and RCW 28B.19.073. [1980 c 186 § 27.]

Severability—1980 c 186: See note following RCW 34.04.045.

Chapter 28B.20

UNIVERSITY OF WASHINGTON

Sections

28B.20.382 Old university grounds or metropolitan tract, conditions for sale, lease or lease renewal—Inspection of pertinent records.

Governing body of recognized student association at college or university, open public meetings act applicable to: RCW 42.30.200.

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 during an odd-numbered year: *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. [1980 c 87 § 10; 1977 ex.s. c 365 § 1; 1974 ex.s. c 174 § 1.]

Chapter 28B.30

WASHINGTON STATE UNIVERSITY

Sections

28B.30.604 Tree fruit research center facility, financing—Anticipation notes authorized—Use of proceeds.

Governing body of recognized student association at college or university, open public meetings act applicable to: RCW 42.30.200.

28B.30.604 Tree fruit research center facility, financing—Anticipation notes authorized—Use of proceeds. At the time the state finance committee determines to issue such bonds or a portion thereof, it may, pending the issuance of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "anticipation notes". The proceeds from the sale of bonds and notes authorized by RCW 28B.30.600 through 28B.30.619 shall be used exclusively for the purposes specified in RCW 28B.30.600 through 28B.30.619 and for the payment of expenses incurred in the issuance and sale of bonds: *Provided*, That such portion of the proceeds of the sale of such bonds as may be required for the payment of the principal and interest on such anticipation notes as have been issued, shall be deposited in the bond redemption fund created in RCW 28B.30.610. [1980 c 32 § 5; 1975 1st ex.s. c 109 § 2; 1974 ex.s. c 109 § 3.]

Severability—1975 1st ex.s. c 109: See note following RCW 28B.30.600.

Severability—1974 ex.s. c 109: See note following RCW 28B.30.600.

Chapter 28B.35

REGIONAL UNIVERSITIES

Governing body of recognized student association at college or university, open public meetings act applicable to: RCW 42.30.200.

Chapter 28B.40

THE EVERGREEN STATE COLLEGE

(Formerly: State colleges)

Governing body of recognized student association at college or university, open public meetings act applicable to: RCW 42.30.200.

Chapter 28B.50

COMMUNITY COLLEGE ACT OF 1967 (AND COMMUNITY COLLEGES GENERALLY)

Sections

28B.50.551 Leave provisions generally.

Governing body of recognized student association at college or university, open public meetings act applicable to: RCW 42.30.200.

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, not more than twelve days per year, commencing with the first day on which work is to be performed; provisions of any contract in force on June 12, 1980, which conflict with requirements of this subsection shall continue in effect until contract expiration; after expiration, any new contract executed between the parties shall be consistent with this subsection;

(2) Such leave entitlement may be accumulated after the first three-quarter period of employment for full time employees, 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. [1980 c 182 § 3; 1977 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.]

Severability—1980 c 182: See note following RCW 41.04.340.

Effective date—Severability—1977 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.

Title 29 ELECTIONS

Chapters

- 29.04** General provisions.
- 29.07** Registration of voters.
- 29.13** Times for holding elections and primaries.
- 29.27** Certificates and notices.
- 29.82** The recall.

Chapter 29.04 GENERAL PROVISIONS

Sections

- 29.04.040 Precincts—Number of voters—Dividing, altering, or combining—Creating new precincts.
- 29.04.130 Maps of precinct boundaries—Census correspondence lists—Duties of county auditor—Distribution—Public record—Copies.
- 29.04.135 Prohibition of certain acts by secretary of state.
- 29.04.170 Local elected officials, commencement of term of office—Purpose, 1979 ex.s. c 126.

29.04.040 Precincts—Number of voters—Dividing, altering, or combining—Creating new precincts.

(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. [1980 c 107 § 3. Prior: 1977 ex.s. c 361 § 4; 1977 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.]

Effective date—Severability—1977 ex.s. c 361: See notes following RCW 29.01.006.

Severability—1977 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 ex.s. c 128 § 6.]

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.

29.04.130 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 for public inspection and use 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. On or before November 1, 1980 each county auditor shall transmit such maps to the secretary of state. 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 transmitted to the secretary of state: *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. [1980 c 107 § 1; 1977 ex.s. c 128 § 3; 1975-'76 2nd ex.s. c 129 § 1.]

Severability—1977 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.]

29.04.135 Prohibition of certain acts by secretary of state. The office of the secretary of state is hereby prohibited from associating in any manner voting results with the materials supplied by the respective county auditors under the provisions of RCW 29.04.130. [1980 c 107 § 2.]

29.04.170 Local elected officials, commencement of term of office—Purpose, 1979 ex.s. c 126. (1) The legislature finds that certain laws are in conflict governing the election of various local officials. The purpose of *this legislation is to provide a common date for the assumption of office for all the elected officials of counties, cities, towns, and special purpose districts other than school districts where the ownership of property is not a prerequisite of voting. It is also the purpose of *this legislation to remove these conflicts and delete old statutory language concerning such elections which is no longer necessary.

(2) For elective offices of counties, cities, towns, and special purpose districts other than school districts where the ownership of property is not a prerequisite of voting, the term of incumbents shall end and the term of successors shall begin after the successor is elected and qualified, and the term shall commence immediately after December 31st following the election, except as follows:

(a) Where the term of office varies from this standard according to statute; and

(b) If the election results have not been certified prior to January 1st after the election, in which event the time of commencement for the new term shall occur when the successor becomes qualified in accordance with RCW 29.01.135.

(3) For elective offices governed by this section, the oath of office shall be taken as the last step of qualification as defined in RCW 29.01.135 but may be taken either:

(a) Up to ten days prior to the scheduled date of assuming office; or

(b) At the last regular meeting of the governing body of the applicable county, city, town, or special district held before the winner is to assume office. [1980 c 35 § 7; 1979 ex.s. c 126 § 1.]

***Reviser's note:** "this legislation" refers to the enactment of RCW 29.01.135, 29.04.170, and 42.17.241, the 1979 amendment of RCW 14.08.304, 28A.57.312, 28A.57.328, 28A.57.355 through 28A.57.358, 29.13.021 through 29.13.025, 29.13.050, 29.13.060, 35.03.040, 35.17.020, 35.17.400, 35.18.020, 35.18.270, 35.23.040, 35.24.050, 35.27.090, 35.61.050, 35A.29.090, 36.16.020, 36.32.030, 36.69.070, 36.69.080, 36.69.090, 52.12.010, 52.12.020, 52.12.060, 53.12.172, 53.12.220, 54.08.060, 54.12.010, 56.12.020, 57.12.030, 68.16.140, and 70.44.040, and the repeal of RCW 28A.57.329 and 53.12.240 by 1979 ex.s. c 126.

Emergency—Severability—1980 c 35: See notes following RCW 28A.57.312.

Chapter 29.07

REGISTRATION OF VOTERS

Sections

| | |
|-----------|---|
| 29.07.010 | County auditor as chief registrar of voters, custodian of records—Deputy registrars—Apportionment of registration expenses. |
| 29.07.160 | Closing registration files—Notice. |
| 29.07.230 | Payment to counties for maintenance of voter registration records on electronic data processing systems. |

29.07.010 County auditor as chief registrar of voters, custodian of records—Deputy registrars—Apportionment of registration expenses. In all counties the county auditor shall be the chief registrar of voters for every precinct within the county. He shall appoint a deputy registrar for each precinct or for any number of precincts and shall appoint city or town clerks as deputy registrars to assist in registering voters residing in cities, towns, and rural precincts within the county. In addition, he shall appoint a deputy registrar for each common school who shall be a school official or school employee, and shall appoint a deputy registrar for each fire station which he finds is convenient to the public for registration purposes and is adequately staffed so that registration would not be a great inconvenience for the fire station personnel. The fire station appointee shall be a person employed at the station.

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

The county auditor shall be the custodian of the official registration records of each precinct within that county. The expenses of registration shall be apportioned between the county and cities or towns therein in the same manner as provided in RCW 29.07.030. [1980 c 48 § 1; 1971 ex.s. c 202 § 4; 1965 c 9 § 29.07.010. Prior: 1957 c 251 § 4; prior: 1939 c 15 § 1, part; 1933 c 1 § 3, part; RRS § 5114–3, part; prior: 1891 c 104 §§ 1, part, 2, part; RRS §§ 5116, part, 5117, part.]

Rural precinct defined: RCW 29.01.150.

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

The county auditor shall give notice of the closing of said files for original registration and transfer by one publication in a newspaper of general circulation in the county at least five days before such closing, except as provided for special elections in accordance with *section 3 of this 1980 act. [1980 c 3 § 4; 1974 ex.s. c 127 § 4; 1971 ex.s. c 202 § 20; 1965 c 9 § 29.07.160. Prior: 1947 c 68 § 2; 1933 c 1 § 9; Rem. Supp. 1947 § 5114–9.]

***Reviser's note:** For "section 3 of this 1980 act" see note following RCW 29.13.010.

29.07.230 Payment to counties for maintenance of voter registration records on electronic data processing systems. To compensate counties with fewer than ten thousand registered voters at the time of the most recent state general election for unrecoverable costs incident to the maintenance of voter registration records on electronic data processing systems, the secretary of state shall, in June of each year, pay such counties an amount equal to thirty cents for each registered voter in the county at the time of the most recent state general election. [1980 c 32 § 6; 1974 ex.s. c 127 § 13.]

Chapter 29.13
TIMES FOR HOLDING ELECTIONS AND
PRIMARIES

| | |
|-----------|--|
| Sections | |
| 29.13.010 | State, county, city, town, and district general elections— State-wide general election—Exceptions—Special county elections. |
| 29.13.020 | City, town, and district general elections— Exceptions—Special elections. |

29.13.010 State, county, city, town, and district general elections—~~State-wide general election—Exceptions—Special county elections.~~ All state, county, city, town, and district general elections for the election of federal, state, legislative, judicial, county, city, town, district, and precinct officers, and for the submission to the voters of the state, county, city, town, or district of any measure for their adoption and approval or rejection, shall be held on the first Tuesday after the first Monday of November, in the year in which they may be called. A state-wide general election shall be held on the first Tuesday after the first Monday of November of each year: *Provided*, That the state-wide general election held in odd-numbered years shall be limited to (1) city, town, and district general elections as provided for in RCW 29.13.020 as now or hereafter amended, or as otherwise provided by law; (2) the election of federal officers for the remainder of any unexpired terms in the membership of either branch of the congress of the United States; (3) the election of state and county officers for the remainder of any unexpired terms of offices created by or whose duties are described in Article II, section 15, Article III, sections 16, 17, 19, 20, 21, 22, and 23, and Article IV, sections 3 and 5 of the state Constitution and RCW 2.06.080; (4) the election of county officers in any county governed by a charter containing provisions calling for general county elections at this time; and (5) the approval or rejection of state measures, including proposed constitutional amendments, matters pertaining to any proposed constitutional convention, initiative measures and referendum measures proposed by the electorate, referendum bills, and any other matter provided by the legislature for submission to the electorate: *Provided further*, That this section shall not be construed as fixing the time for holding primary elections, or elections for the recall of any elective public officer: *Provided however*, That the county legislative authority may, if they deem an emergency to exist, call a special county election by presenting a resolution to the county auditor at least forty-five days prior to the proposed election date. A special election called by the county legislative authority shall be held on one of the following dates as decided by such governing body:

(a) The first Tuesday after the first Monday in February;

(b) The second Tuesday in March, except that if a state-wide political party caucus by a major political party is scheduled on the second Tuesday, then a special election may not be held on such date but may be held on the third Tuesday in March;

(c) The first Tuesday after the first Monday in April;
(d) The third Tuesday in May;
(e) The day of the primary as specified by RCW 29.13.070; or

(f) The first Tuesday after the first Monday in November.

In addition to the dates set forth in (a) through (f) above, a special election to validate an excess levy or bond issue may be called at any time to meet the needs resulting from failure of a county to pass a special levy for the first time or from fire, flood, earthquake, or other act of God. Such county special election shall be noticed and conducted in the manner provided by law.

This section shall supersede the provisions of any and all other statutes, whether general or special in nature, having different dates for such city, town, and district elections, the purpose of this section being to establish mandatory dates for holding elections except for those elections held pursuant to a home-rule charter adopted under Article XI, section 4 of the state Constitution. [1980 c 3 § 1; 1975-'76 2nd ex.s. c 111 § 1; 1975-'76 2nd ex.s. c 3 § 1; 1973 2nd ex.s. c 36 § 1; 1973 c 4 § 1; 1965 c 123 § 2; 1965 c 9 § 29.13.010. Prior: 1955 c 151 § 1; prior: (i) 1923 c 53 § 1; 1921 c 61 § 1; RRS § 5143. (ii) 1921 c 61 § 3; RRS § 5145.]

Special election procedures for March of 1980: "Notwithstanding the provisions of RCW 29.13.010 and 29.13.020, as now or hereafter amended, any county, city, town, or district calling a special election on the third Tuesday of March pursuant to *section 1 or 2 of this 1980 amendatory act shall call such election by presenting a resolution to the county auditor at least thirty-five days prior to that proposed election date. The county auditor shall give notice of the closing of voter registration for any special election to be held on the third Tuesday in March of 1980 by one publication in a newspaper of general circulation in the county at least three days before such closing. The provisions of this section shall only apply to elections to be held in March of 1980." [1980 c 3 § 3.]

***Reviser's note:** Sections 1 and 2 of this 1980 amendatory act consist of the amendments to RCW 29.13.010 and 29.13.020, respectively, by 1980 c 3.

Severability—1975-'76 2nd ex.s. c 111: "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 111 § 3.]

Elections called prior to June 25, 1976: "Nothing in sections 1 or 2 of this 1976 amendatory act shall affect any special election which has been called prior to the effective date of this 1976 amendatory act." [1975-'76 2nd ex.s. c 111 § 4.]

The effective date of 1975-'76 2nd ex.s. c 111 was June 25, 1976.

29.13.020 City, town, and district general elections—~~Exceptions—Special elections.~~ All city, town, and district general elections shall be held throughout the state of Washington on the first Tuesday following the first Monday in November in the odd-numbered years.

This section shall not apply to:

(1) Elections for the recall of any elective public officer.

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

(3) Consolidation proposals as provided for in RCW 28A.57.180 and nonhigh capital fund aid proposals as provided for in chapter 28A.56 RCW.

The county auditor, as ex officio supervisor of elections, upon request in the form of a resolution of the governing body of a city, town or district, presented to him at least forty-five days prior to the proposed election date, may, if he deems an emergency to exist, call a special election in such city, town, or district and for the purpose of such special election he may combine, unite, or divide precincts. A special election called by such governing body shall be held on one of the following dates as decided by the governing body:

(a) The first Tuesday after the first Monday in February;

(b) The second Tuesday in March, except that if a state-wide political party caucus by a major political party is scheduled on the second Tuesday, then a special election may not be held on such date but may be held on the third Tuesday in March: *Provided however*, That in any county holding an election on the second Tuesday in March of 1980 pursuant to a home-rule charter adopted under Article XI, section 4 of the state Constitution, any city, town, or district where any portion of the registered voters of that city, town, or district reside within that charter county may hold special elections on the second Tuesday in March of 1980;

(c) The first Tuesday after the first Monday in April;

(d) The third Tuesday in May;

(e) The day of the primary election as specified by RCW 29.13.070; or

(f) The first Tuesday after the first Monday in November.

In addition to (a) through (f) above, a special election to validate an excess levy or bond issue may be called at any time to meet the needs resulting from failure of a school or junior taxing district to pass a special levy for the first time or from fire, flood, earthquake, or other act of God. Such special election shall be conducted and notice thereof given in the manner provided by law.

This section shall supersede the provisions of any and all other statutes, whether general or special in nature, having different dates for such city, town, and district elections, the purpose of this section being to establish mandatory dates for holding elections. [1980 c 3 § 2; 1975-'76 2nd ex.s. c 111 § 2; 1965 c 123 § 3; 1965 c 9 § 29.13.020. Prior: 1963 c 200 § 1; 1955 c 55 § 1; 1951 c 101 § 1; 1949 c 161 § 1; 1927 c 182 § 1; 1923 c 53 § 2; 1921 c 61 § 2; Rem. Supp. 1949 § 5144.]

Special election procedures for March of 1980: See note following RCW 29.13.010.

Severability—Elections called prior to June 25, 1976—1975-'76 2nd ex.s. c 111: See notes following RCW 29.13.010.

Chapter 29.27

CERTIFICATES AND NOTICES

Sections

29.27.080 Notice of election—Certification of measures.

[1980 RCW Supp—page 70]

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

(2) All school district elections held on February 5, 1980, at which the number and proportion of persons required by law voted to authorize bonds or tax levies, are hereby validated regardless of any failure to publish notice of such election. No action challenging the validity of any such election may be brought later than April 15, 1980, or thirty days from June 12, 1980, whichever is later. Notice of provisions of this subsection shall be published within five days after the effective date of this section of this 1980 act in a newspaper of general circulation within each county where a school district election was held on February 5, 1980, and where notice of such election was not published as provided in subsection (1) of this section. [1980 c 35 § 8; 1965 c 9 § 29.27.080. Prior: 1955 c 153 § 1; 1951 c 101 § 7; 1949 c 161 § 11; Rem. Supp. 1949 § 5148-3a.]

Reviser's note: For phrase "within five days after the effective date of this section of this 1980 act" see notes following RCW 28A.57.312 relating to 1980 c 35.

Emergency—Severability—1980 c 35: See notes following RCW 28A.57.312.

Publication of diagrams: RCW 29.33.180.

Chapter 29.82

THE RECALL

Sections

29.82.020 Determining whether recall charges meet constitutional requirements—Ballot synopsis.
29.82.105 Response to petition charges.
29.82.130 Conduct of election—Form of ballot.

29.82.020 Determining whether recall charges meet constitutional requirements—Ballot synopsis. If the recall is demanded of a state-wide elected official, the attorney general shall determine within fifteen days of

the filing of the charge whether or not the acts complained of in the charge are acts of malfeasance or misfeasance while in office, or a violation of the oath of office, as specified in the Constitution. If the recall is demanded of a member of the state senate or house of representatives, and the legislative district of said member lies wholly within one county, the determination shall be made by the prosecuting attorney of such county within fifteen days of the filing of the charge. If the member's legislative district extends into two or more counties, the attorney general shall make the determination within the aforesaid time. If the recall is demanded of any other official, the prosecuting attorney of the county in which the person subject to recall resides shall make such determination within fifteen days of the filing of the charge: *Provided*, That if the recall is demanded of the attorney general, the determination shall be made by the chief justice of the supreme court of the state of Washington within fifteen days of the filing of the charge: *Provided further*, That if the recall is demanded of a prosecuting attorney, the determination shall be made by the attorney general within fifteen days of the filing of the charge. Upon determination that the recall charges meet the constitutional requirements, the attorney general, the prosecuting attorney, or the chief justice of the supreme court, as the case may be, shall, within thirty days of the filing of the charge, formulate a ballot synopsis of such charge of not to exceed two hundred words, which shall set forth the name of the person charged, the title of his office, and a concise statement of the elements of the charge, and shall notify the persons filing the charge of the exact language of such ballot synopsis, and attach a copy thereof to and file the same with the charge, and thereafter such charge shall be designated on all petitions, ballots, and other proceedings in relation thereto by such synopsis. [1980 c 42 § 3; 1971 ex.s. c 205 § 1; 1965 c 9 § 29.82.020. Prior: 1913 c 146 § 3; RRS § 5352.]

Severability—1971 ex.s. c 205: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 205 § 6.]

29.82.105 Response to petition charges. When a date for a special recall election is set the officer with whom the petition is filed shall serve a notice of the date of the election and a copy of the ballot synopsis of the charge as it will appear on the ballot to the officer whose recall is demanded. The manner of service shall be the same as for the commencement of a civil action in superior court. After having been served a notice of the date of the election and the ballot synopsis the officer whose recall is demanded may submit to the officer with whom the petition is filed a response, not to exceed two hundred and fifty words in length, to the charge contained in the ballot synopsis. Such response shall be submitted by the seventh consecutive day after service of the notice. [1980 c 42 § 1.]

29.82.130 Conduct of election—Form of ballot. The special election to be called for the recall of officers

shall be conducted in the same manner as general, state, county, municipal, or other political subdivision elections, as the case may be, are conducted. The proper election officer shall provide for the holding of recall elections and the necessary places and officers, ballot boxes, ballots, poll books, voting machines, supplies, and returns as are required by law for holding general elections. The ballots at any recall election shall contain a full, true, and correct copy of the ballot synopsis of the charge, the officer's response to the charge if such has been filed, and shall be so arranged that any voter can, by making one cross (X) express his desire to have the officer charged recalled from his office, or retained therein. Substantially the following form shall be a compliance with the provisions of this section:

RECALL BALLOT

(Here insert the ballot synopsis of the charge.) (Here insert the officer's response to the charge.)

FOR the recall of (here insert the name of the officer)
 AGAINST the recall (here insert the name of the officer)

[1980 c 42 § 2; 1965 c 9 § 29.82.130. Prior: 1913 c 146 § 11; RRS § 5360. See also RCW 29.48.040.]

**Title 30
BANKS AND TRUST COMPANIES**

**Chapters
30.40 Branch banks.**

**Chapter 30.40
BRANCH BANKS**

**Sections
30.40.060 Relocation of branch office or drive-in facility in central business district due to redevelopment project.**

30.40.060 Relocation of branch office or drive-in facility in central business district due to redevelopment project. Notwithstanding any provision of RCW 30.40.020, a bank which on June 7, 1979, is operating in the central business district of a city having a population of forty-five thousand or more a branch banking office which includes a drive-in facility, both of which are operated as a single branch office although they are physically divided by a city street, may, if a major redevelopment project for upgrading the central business district pursuant to a redevelopment plan is adopted or approved by a duly constituted municipal planning body or other appropriate governmental authority and concurred in by the supervisor of banking, petition the supervisor of banking for the relocation of the branch

office or drive-in facility to a location within such redevelopment project not in excess of eight hundred feet from the former location of the branch office, and such branch office may retain and operate the single drive-in facility as a separate facility: *Provided*, That such drive-in facility shall be limited to the customary paying and receiving functions, shall not be considered as a branch in and of itself, and shall not engage in any other banking business: *Provided further*, That any action sought to be taken pursuant to the authority of this section, whether by a national bank or a state-chartered bank, shall be subject, in its entirety, to the prior approval of the supervisor of banking, who shall base his approval or disapproval of such action upon the protection of public and private funds and the public safety and welfare. [1980 c 9 § 1; 1979 c 106 § 7.]

Title 31

MISCELLANEOUS LOAN AGENCIES

Chapters

31.12 Credit unions.

31.12A Credit union share guaranty association act of 1975.

Chapter 31.12

CREDIT UNIONS

Sections

| | |
|-----------|--|
| 31.12.080 | Membership. |
| 31.12.090 | Savings—Loans—Investment in transaction of own business—Real property, leaseholds. |
| 31.12.130 | Capital—Limitation on deposits and shares—Notice of withdrawal. |
| 31.12.190 | Powers and duties of directors. |
| 31.12.220 | Guaranty fund. |
| 31.12.270 | Classes of loans—Preference. |
| 31.12.280 | Limits and conditions of personal loans. |
| 31.12.305 | Deposits of deferred compensation—Applicability. |
| 31.12.320 | Reports—Examinations—Suspension of business—Communications. |

31.12.080 Membership. Credit union membership shall consist of the incorporators and such other persons as may be elected to membership and subscribe for at least one share and pay the initial installment thereon and the entrance fee, if any. Any fraternal organization, partnership or corporation having a usual place of business within the state and composed principally of individual members or stockholders who are themselves eligible to membership in a credit union, may become a member of a credit union, but, except with the consent of the supervisor, the credit union shall make no loan to such a member in excess of the total of its shares and deposits therein; nor shall a credit union receive from any such member money in payment for shares or on deposit to such an amount that the total of such payment by all members of the class described in this section shall exceed at any time twenty-five percent of the assets of the credit union. Credit union organization

shall be limited to groups of both large and small membership having a common bond of occupation or association, or to groups within a well defined neighborhood, community or rural district. [1980 c 41 § 1; 1943 c 131 § 4; 1933 c 173 § 4; Rem. Supp. 1943 § 3923-4.]

Severability—1980 c 41: "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." [1980 c 41 § 13.]

31.12.090 Savings—Loans—Investment in transaction of own business—Real property, leaseholds. Subject to the provisions of RCW 31.12.080, a credit union may receive savings from its members in payment for shares or on deposit, or may lend to its members at reasonable rates, or invest, as hereinafter provided, the funds so accumulated. It may undertake such other activities relating to the purpose of its organization as its articles of incorporation may provide. A credit union may invest a reasonable amount of its funds in real property or leasehold interests therein for use principally in the transaction of its business when:

(1) The aggregate of its guaranty fund and undivided profits accounts equals five percent of the aggregate of its share accounts;

(2) its directors, by at least three-fourths affirmative vote, approve the making of such investment; and

(3) the total investment in such property does not exceed seven and one-half percent of the aggregate of its share accounts.

The foregoing restrictions of this section shall not affect existing investments of credit unions. No credit union may invest its funds in real property or leasehold interests therein for use principally in the transaction of its business without the prior written approval of the supervisor. However a credit union may acquire real property through collection of loans secured thereby. The supervisor may, if he deems it to be in the best interest of the credit union, waive the restrictions of this section pertaining to real property and leasehold interests. [1980 c 41 § 2; 1959 c 138 § 1; 1943 c 131 § 5; 1933 c 173 § 5; Rem. Supp. 1943 § 3923-5.]

Severability—1980 c 41: See note following RCW 31.12.080.

31.12.130 Capital—Limitation on deposits and shares—Notice of withdrawal. The capital of a credit union shall be unlimited in amount. Deposits and shares of capital stock may be subscribed and paid for in such manner as the bylaws prescribe. A shareholder may purchase shares in a credit union and may also make deposits therein to an amount in the aggregate not exceeding five hundred dollars or twenty percent of the total shares and deposits of the credit union, whichever is greater. A credit union may require from a member ninety days' notice of his intention to withdraw any or all of his shares and sixty days' notice of intention to withdraw any or all of his deposits, except that the notices may be extended beyond such time limits with the written consent of the supervisor. [1980 c 41 § 3; 1953 c 48 § 1; 1947 c 213 § 1; 1943 c 131 § 8; 1933 c 173 § 9; Rem. Supp. 1947 § 3923-9.]

Severability—1980 c 41: See note following RCW 31.12.080.

31.12.190 Powers and duties of directors. The board shall have the general direction of the affairs of the corporation and shall meet as often as may be necessary, but not less than once in each month. It shall act upon all applications for membership and upon the expulsion of members, except that a membership officer may be authorized by the board to approve applications for membership under such conditions as the board may prescribe which are consistent with the provisions of this chapter, and such membership officers so authorized shall submit to the board at each monthly meeting a list of approved or pending applications for membership received since the previous monthly meeting, together with such other related information as the bylaws or the board may require. The board shall determine the rate of interest on loans subject to the limitations herein, determine the rate of interest to be paid on deposits, which shall not be greater than one-half of one percent less than the rate at which dividends have been declared during the immediately preceding period, determine the types of security which shall be acceptable on loans subject to the limitations herein, and fill vacancies in the board and in such committees for which provision as to filling of vacancies is not made herein, until the next election. The board shall make recommendations to the members relative to matters upon which it deems the members should act at any regular or special meeting. The board from time to time shall set the amount of shares and deposits which any one member may hold in the credit union, and set the amount which may be loaned, secured or unsecured, to any one member, all subject to the limitations contained in this chapter. At each annual, semiannual, or quarterly period the board may declare a dividend from net earnings, which shall be paid on all shares outstanding at the time of declaration, and which may be paid to members on shares withdrawn during the period. Shares which become paid up during the year shall be entitled to a proportional part of the dividend calculated from the first day of the month following such payment in full: *Provided*, That the board may compute such full shares if purchased on or before the tenth day of any month, as of the first day of the month, and from the date of deposit to date of withdrawal. The board may borrow money in behalf of the credit union, for the purpose of making loans, and the payment of debts or withdrawals. The aggregate amount of such loans shall not exceed thirty-three and one-third percent of the credit union's paid-in and unimpaired capital and surplus except with the approval of the supervisor. It may, by a two-thirds vote, remove from office any officer for cause; or suspend any member of the board, credit committee, investment committee, or audit committee, for cause, until the next membership meeting, which meeting shall be held within fifteen days of the suspension, and at which meeting the suspension shall be acted upon by the members. Notwithstanding any other provision of this section, a director who fails to attend three consecutive regular meetings of the board and whose reason for absence is not deemed justifiable

by the remaining members of the board shall be subject to removal at their discretion by majority vote; the vacant office shall then be filled as prescribed in the bylaws. The board shall make a written report to the members at each annual meeting. [1980 c 41 § 4; 1975 1st ex.s. c 222 § 1; 1973 1st ex.s. c 8 § 5; 1969 c 65 § 3; 1967 c 180 § 7; 1959 c 138 § 3; 1957 c 23 § 5; 1953 c 48 § 4; 1943 c 131 § 12; 1933 c 173 § 15; Rem. Supp. 1943 § 3923-15.]

Severability—1980 c 41: See note following RCW 31.12.080.

Severability—Prior transactions—1967 c 180: See notes following RCW 31.08.200.

31.12.220 Guaranty fund. At the end of each accounting period and before the payment of any dividend there shall be set apart as a guaranty fund, reserves against losses on loans, an amount in accordance with the following schedule:

(1) A credit union in operation for more than four years and having assets of five hundred thousand dollars or more shall set aside (a) ten percent of gross income until the guaranty fund shall equal four percent of the total of outstanding loans, then (b) five percent of gross income until the guaranty fund shall equal six percent of the total of outstanding loans.

(2) A credit union in operation less than four years or having assets of less than five hundred thousand dollars shall set aside (a) ten percent of gross income until the guaranty fund shall equal seven and one-half percent of the total of outstanding loans, then (b) five percent of gross income until the guaranty fund shall equal ten percent of the total of outstanding loans.

Whenever the guaranty fund falls below the stated percentage of the total of outstanding loans, it shall be replenished by regular contributions in such amounts as may be needed to maintain the stated guaranty fund reserve.

The supervisor may, if deemed necessary, require the establishment of a liquidity reserve of up to five percent of unimpaired capital.

This liquidity reserve shall be in cash or investments with maturities of one year or less.

In computing total loans, credit unions may exclude to the extent of such coverage: (i) Loans secured by shares, and (ii) loans insured or guaranteed by the federal government.

Credit unions with shares insured by the National Credit Union Administration, may in the alternative comply with reserve requirements and regulations promulgated by the National Credit Union Administration. All entrance fees shall be added to the guaranty fund at the close of the dividend period, and shall never exceed five dollars for each member. The guaranty fund and the investments thereof shall be held to meet contingencies or losses in the business of the credit union, and shall not be distributed to its members, except in the case of dissolution. [1980 c 41 § 5; 1973 1st ex.s. c 8 § 7; 1969 c 65 § 5; 1967 c 180 § 8; 1943 c 131 § 15; 1933 c 173 § 18; Rem. Supp. 1943 § 3923-18.]

Severability—1980 c 41: See note following RCW 31.12.080.

Severability—Prior transactions—1967 c 180: See notes following RCW 31.08.200.

31.12.270 Classes of loans—Preference. A credit union may make:

(1) Personal loans to its members secured by the note of the borrower or other adequate security, including but not limited to interests in real estate and security interests in mobile homes, travel trailers and motor homes as defined by RCW 82.50.010;

(2) Loans to its members under the act of congress known as the "Higher Education Act of 1965", Nov. 8, 1965, Pub. L. 89-329 (20 USC sections 1001 to 1144 inc.);

(3) Loans to its members for the acquisition of a mobile home as defined by RCW 82.50.010, secured by a first security interest in that mobile home, owned by the member. Such loans shall not exceed eighty-five percent of the purchase price or of the appraised value thereof, whichever is the lesser; such loans shall have a maturity not to exceed twenty years;

(4) Loans to its members secured by first mortgages or real estate contracts in which members are buyers if such mortgage or contract relates to real estate which is situated within the state;

(5) Loans to other credit unions upon a majority vote of the board: *Provided*, That the total amount of such loans does not exceed twenty-five percent of the paid-in and unimpaired capital and surplus of the lending credit union; and

(6) Loans to its members under the act of congress known as the "FHA Title 1, National Housing Act of 1934", June 27, 1934 (12 USC sections 1701 to 1750 inc.).

Personal loans shall be given preference, and in the event there are not sufficient funds available to satisfy all loan applicants approved by the credit committee, further preference shall be given to the smaller loan. [1980 c 41 § 6; 1975 1st ex.s. c 222 § 6; 1973 1st ex.s. c 8 § 11; 1969 c 65 § 9; 1967 c 180 § 11; 1965 ex.s. c 38 § 1; 1957 c 23 § 11. Prior: 1953 c 48 § 6; 1947 c 213 § 4, part; 1943 c 131 § 18, part; 1933 c 173 § 23, part; Rem. Supp. 1947 § 3923-23, part.]

Severability—1980 c 41: See note following RCW 31.12.080.

Severability—Prior transactions—1967 c 180: See notes following RCW 31.08.200.

31.12.280 Limits and conditions of personal loans. Personal loans shall be payable within five years from the date thereof: *Provided*, That loans with adequate security may be made payable within ten years. Unsecured loans may be made to members not to exceed five hundred dollars for credit unions whose unimpaired capital and surplus is less than eight thousand dollars or up to two and one-half percent of the unimpaired capital and surplus of any other credit union not to exceed four thousand dollars. Members may make share secured loans up to the full extent of their share holdings. Additionally, other loans with adequate security may be made to members of a family community in an aggregate amount not to exceed five hundred dollars or ten

percent of the credit union's unimpaired capital and surplus, whichever is greater: *Provided*, That personal loans not totally secured by share deposits shall not exceed, in the aggregate, twelve thousand dollars. The supervisor may waive the restrictions in this section. [1980 c 41 § 7; 1975 1st ex.s. c 222 § 7; 1973 1st ex.s. c 8 § 12; 1969 c 65 § 10; 1967 c 180 § 12; 1965 ex.s. c 38 § 2; 1959 c 138 § 7; 1957 c 23 § 12. Prior: 1953 c 48 § 7; 1947 c 213 § 4, part; 1943 c 131 § 18, part; 1933 c 173 § 23, part; Rem. Supp. 1947 § 3923-23, part.]

Severability—1980 c 41: See note following RCW 31.12.080.

Severability—Prior transactions—1967 c 180: See notes following RCW 31.08.200.

31.12.305 Deposits of deferred compensation—Applicability. A credit union may accept deposits of deferred compensation of its members pursuant to the terms and conditions as set forth in RCW 28A.58.740 and 41.04.250(2), each as now or hereafter amended.

The provisions of this section shall apply retrospectively as well as prospectively. [1980 c 41 § 9.]

Severability—1980 c 41: See note following RCW 31.12.080.

31.12.320 Reports—Examinations—Suspension of business—Communications. Within thirty days after the first business day of January in each year, the auditing committee of each credit union shall make to the supervisor a report in such form as he may prescribe, and shall make oath that the report is true and correct. Any credit union neglecting to make said report within the time herein prescribed and such other requested reports within thirty days after notification shall forfeit to the state five dollars for each day during which neglect continues. The penalty for any single delinquency shall not exceed one hundred dollars.

The supervisor shall make or cause to be made an examination and full investigation into the affairs of each credit union at least once every eighteen months. The actual cost of examination and supervision shall be paid by the credit union examined: *Provided*, That the supervisor may accept in lieu of an examination the report of any competent accountant, satisfactory to the supervisor, who has made and submitted a report of the condition of the affairs of such credit union, and if approved, shall have the same force and effect as though the examination were made by the supervisor or one of his appointees. Examination costs shall not be payable by a credit union with respect to the first examination following approval of its articles of incorporation by the supervisor, and the supervisor may adjust examination costs payable for succeeding examinations giving due consideration to the time and expense incident to such examinations, and to the ability of the credit unions to pay such costs.

If it is found that the capital of a credit union be impaired or that business is being conducted contrary to law the supervisor may require said credit union to suspend operations until such condition is corrected.

Any communications from the supervisor to the board of directors must be read before said board at its next meeting and the reading noted in the minutes of the meeting. [1980 c 41 § 8; 1973 1st ex.s. c 8 § 14; 1947 c

213 § 5; 1943 c 131 § 20; 1933 c 173 § 26; Rem. Supp. 1947 § 3923-26.]

Severability—1980 c 41: See note following RCW 31.12.080.

Chapter 31.12A
CREDIT UNION SHARE GUARANTY
ASSOCIATION ACT OF 1975

Sections

| | |
|------------|--|
| 31.12A.010 | Definitions. |
| 31.12A.050 | Funding—Liquidity—Investments— Termination. |

31.12A.010 Definitions. As used in this chapter unless the context otherwise requires:

(1) "Association" means the credit union share guaranty association created in RCW 31.12A.020;

(2) "Board" means board of directors of the guaranty association;

(3) "Credit union" means a credit union organized and authorized under laws contained in chapter 31.12 RCW, as now or hereafter amended;

(4) "Initial member" means a member qualified by the supervisor within sixty days after September 1, 1975 but not yet ratified by the board;

(5) "Member" means a member of the guaranty association, ratified by the board;

(6) "Share account" of a credit union shareholder includes the share accounts and/or deposit accounts of which the shareholder is owner of record with the credit union;

(7) "Shareholder" includes both members and non-members of a credit union, who have either shares and/or deposits in the credit union, including deposits of deferred compensation as referred to in RCW 31.12.305; and

(8) "Supervisor" means the state supervisor of the division of savings and loan associations, or his successor in the event of a departmental restructuring. [1980 c 41 § 11; 1975 1st ex.s. c 80 § 3.]

Severability—1980 c 41: See note following RCW 31.12.080.

31.12A.050 Funding—Liquidity—Investments—Termination. (1) Establishment of the share guaranty association contingency reserve shall be accomplished by setting aside from each initial member's guaranty fund an amount equal to one-half of one percent of the total insurable outstanding shares and deposit balances as of the 31st of December preceding September 1, 1975. Credit unions approved by the supervisor and ratified by the board for membership subsequent to those initial members shall establish a share guaranty association contingency reserve by setting aside from their guaranty fund an amount equal to one-half of one percent of the total outstanding share and deposit balances as of the 31st of December of the year preceding membership. Such sum shall be retained in the credit union share guaranty contingency reserve as an integral

part of its guaranty fund until such time and if necessary to be drawn for the purpose set forth in this chapter.

(2) Continued funding of the association shall be by annual assessment at the rate of one-forty-fifth of one percent of each member's insurable outstanding share and deposit balance as of December 31st of each preceding year. Such funds shall be retained by the member in its share guaranty contingency reserve. Such sum may be offset from the statutory transfer requirement to the guaranty fund. The board, with concurrence of the supervisor, shall have authority to assess an additional amount not to exceed one-forty-fifth of one percent of each member's insurable share and deposit balance in any one year, as conditions may warrant.

(3) Members' share guaranty association contingency reserve funds shall be invested in investments as permitted in the bylaws of the association.

(4) The board, in concurrence with the supervisor, may also suspend or diminish the assessment in any given period after reaching a normal operating sufficiency as provided in the bylaws.

(5) Membership in this association may be terminated upon approval by a majority of the credit union members responding to such a proposal and subject further to acceptance by the national credit union administration of continued share insurance coverage under the national credit union administration share insurance program. Notice of such intentions shall be in writing to the association's board of directors at least twelve months prior to such contemplated action: *Provided*, That in the event of conversion from state to federal credit union charter the converting member will notify the association in compliance with RCW 31.12.390. Share guarantee coverage through the association will terminate with the effective date of the federal charter. [1980 c 41 § 12; 1975 1st ex.s. c 80 § 7.]

Severability—1980 c 41: See note following RCW 31.12.080.

Title 33

SAVINGS AND LOAN ASSOCIATIONS

Chapters

33.12 Powers and restrictions.

33.20 Members—Savings.

Chapter 33.12

POWERS AND RESTRICTIONS

Sections

| | |
|-----------|--|
| 33.12.020 | Demand accounts prohibited. (Effective December 31, 1980.) |
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33.12.020 Demand accounts prohibited. (Effective December 31, 1980.) An association shall not carry any demand accounts. [1980 c 54 § 2; 1945 c 235 § 30; Rem. Supp. 1945 § 3717-149. Prior: 1939 c 98 § 7; 1933 c 183 § 48; 1913 c 110 § 12.]

Contingent effective date—1980 c 54: See note following RCW 33.20.190.

Chapter 33.20 MEMBERS—SAVINGS

Sections

33.20.190 Withdrawal by association draft—Withdrawal by order or authorization—Interest eligibility. (Effective December 31, 1980.)

33.20.190 Withdrawal by association draft—Withdrawal by order or authorization—Interest eligibility. (Effective December 31, 1980.) A savings and loan association may, on instruction from a saver or depositor, effect withdrawals from his account by the association's drafts payable to parties and on terms as so instructed. A savings and loan association may allow a saver or depositor to effect withdrawals or transfers from his or her account upon negotiable or transferable order or authorization to the association. To the extent of the subjection of accounts to such withdrawal instructions or orders, such accounts may be specifically classified under RCW 33.20.180 and ineligible to receive interest or eligible only for limited interest. [1980 c 54 § 1; 1969 c 107 § 10.]

Contingent effective date—1980 c 54: "The provisions of this 1980 amendatory act shall take effect on the effective date of a law enacted by the United States Congress enabling depository institutions in the state of Washington to allow the owner of a deposit or account on which interest or dividends are paid to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties." [1980 c 54 § 3.] Section 303 of the Consumer Checking Account Equity Act of 1980, 94 Stat. 145, authorizes the above-mentioned withdrawals. Section 303 has an effective date of December 31, 1980.

Title 34 ADMINISTRATIVE LAW

Chapters

34.04 Administrative procedure act.
34.08 Washington State Register Act of 1977.

Chapter 34.04 ADMINISTRATIVE PROCEDURE ACT

Sections

34.04.040 Rules filed with code reviser—Register—Effective dates—Report.
34.04.045 Statement of proposed rule's purpose and how implemented—Contents—Distribution by agency.
34.04.048 Withdrawal of proposed rules.
34.04.050 Code reviser to compile and edit rules, publish register—Removal of unconstitutional rules—Distribution of registers and codes—County law library trustees to maintain set—Judicial notice of rules.
34.04.052 Scope of editing and revision of rules.
34.04.058 Format and style of rules amending existing sections, adding new sections—Effect of failure to comply.

34.04.090 Contested cases—Notice—Hearing—Summary orders—Informal disposition—Record—Findings of fact—Agency's powers.
34.04.133 Contested cases—Direct review by court of appeals.
34.04.135 Contested cases—Refusal of review by court of appeals.
34.04.160 Legislative review of rules.
34.04.160 Legislative review of rules. (Repealed)
34.04.170 Provisions applicable to licenses and licensing.

34.04.040 Rules filed with code reviser—Register—Effective dates—Report. (1) Each agency shall file forthwith in the office of the code reviser a certified copy of all rules now in effect and hereafter adopted, except the rules contained in tariffs filed with or published by the Washington utilities and transportation commission. The code reviser shall keep a permanent register of such rules open to public inspection.

(2) Emergency rules adopted under RCW 34.04.030 shall become effective upon filing. All other rules hereafter adopted shall become effective upon the expiration of thirty days after the date of filing, unless a later date is required by statute or specified in the rule.

(3) The code reviser shall report to each regular session of the legislature during an odd-numbered year on the state of compliance of the agencies with this section. For this purpose, all agencies shall supply the code reviser with such information as he may request. [1980 c 87 § 11; 1959 c 234 § 4.]

34.04.045 Statement of proposed 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 proposed after June 12, 1980, 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 be on the agency's stationery or a form bearing the agency's name and shall contain, but is not limited to, the following:

(a) A title, containing a description of the rule's purpose, 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 and a statement of the reasons supporting the proposed action;

(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 name of the person or organization, whether private, public, or governmental, proposing the rule;

(e) Agency comments or recommendations, if any, regarding statutory language, implementation, enforcement, and fiscal matters pertaining to the rule;

(f) Whether the rule is necessary as the result of federal law or federal or state court action, and if so, a copy of such law or court decision shall be attached to the purpose statement.

(2) Upon filing notice of the proposed 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. [1980 c 186 § 10; 1977 ex.s. c 84 § 1.]

Severability—1980 c 186: "If any provision of this 1980 act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 186 § 29.]

34.04.048 Withdrawal of proposed rules. (1) A proposed rule may be withdrawn by the proposing agency at any time before adoption. A withdrawn rule may not be adopted unless it is again proposed in accordance with RCW 34.04.025 as now or hereafter amended.

(2) Rules not adopted within one year after publication of the text as last proposed in the register shall be regarded as withdrawn. An agency may not thereafter adopt the text of the rules without filing the text in accordance with RCW 34.04.025 as now or hereafter amended. The code reviser shall give notice of the withdrawal in the register. [1980 c 186 § 11.]

Severability—1980 c 186: See note following RCW 34.04.045.

34.04.050 Code reviser to compile and edit rules, publish register—Removal of unconstitutional rules—Distribution of registers and codes—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 register in which he shall set forth the text of all rules filed during the appropriate register publication period, 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) The code reviser may edit and revise rules for publication, codification, and compilation, without changing the meaning of any such rule, in accordance with the provisions of RCW 34.04.052.

(5) When a rule, in whole or in part, is declared invalid and unconstitutional by a court of final appeal, the adopting agency shall give notice to that effect in the register. With the consent of the attorney general, the code reviser may remove obsolete rules or parts of rules from the Washington Administrative Code when:

(a) The rules are declared unconstitutional by a court of final appeal; or

(b) The adopting agency ceases to exist and the rules are not transferred by statute to a successor agency.

(6) 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.

(7) 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.

(8) Judicial notice shall be taken of rules filed and published as provided in RCW 34.04.040 and this section. [1980 c 186 § 12; 1977 ex.s. c 240 § 9; 1959 c 234 § 5.]

Severability—1980 c 186: See note following RCW 34.04.045.

Effective date—1977 ex.s. c 240: See note following RCW 34.08.010.

Severability—1977 ex.s. c 240: See RCW 34.08.910.

34.04.052 Scope of editing and revision of rules. Subject to such general policies as may be promulgated by the statute law committee and to the general supervision of the committee, the code reviser shall edit and revise agency rules for consolidation into the Washington Administrative Code, to the extent deemed necessary and desirable by the reviser and without changing the meaning of any such rule, in the following respects only:

(1) Make capitalization uniform with that followed generally in the Washington Administrative Code;

(2) Make chapter or section division and subdivision designations uniform with that followed in the Washington Administrative Code;

(3) Rearrange any misplaced material, incorporate any omitted material as well as correct manifest errors in spelling, manifest clerical or typographical errors, or errors by way of additions or omissions;

(4) Correct manifest errors in references, by chapter or section number, to other laws or rules;

(5) Correct manifest errors or omissions in numbering or renumbering sections of the Washington Administrative Code;

(6) Strike provisions manifestly obsolete. [1980 c 186 § 13.]

Severability—1980 c 186: See note following RCW 34.04.045.

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, as now or hereafter amended, 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 may be forwarded by any agency to the code reviser, nor may 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 register 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 unless the ineffectual portion of the rule is clearly distinguished and an explanatory note is appended thereto by the code reviser in accordance with RCW 34.04.050, as now or hereafter amended, and RCW 34.04.052. [1980 c 186 § 14; 1977 c 19 § 1.]

Severability—1980 c 186: See note following RCW 34.04.045.

34.04.090 Contested cases—Notice—Hearing—Summary orders—Informal disposition—Record—Findings of fact—Agency's powers. (1) In any contested case all parties shall be afforded an opportunity for hearing after not less than twenty days' notice; but no hearing shall be required until the hearing is demanded unless other statutory provisions or agency rules provide otherwise. The notice shall include:

(a) A statement of the time, place and nature of the proceeding;

(b) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(c) A reference to the particular sections of the statutes and rules involved;

(d) A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon request a more definite and detailed statement shall be furnished.

(2) Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

(3) An agency may provide by rule for entry of summary orders in part or in whole after notice and hearing to all parties. The motion shall be granted if the pleadings, dispositions and admissions on file, together with the affidavits, if any, show there is no genuine issue as to any material fact and that the moving party is entitled to the order as a matter of law.

(4) Unless precluded by law, informal disposition may also be made of any contested case by stipulation, agreed settlement, consent order, or default.

(5) The record in a contested case shall include:

(a) All pleadings, motions, intermediate rulings;

(b) Evidence received or considered;

(c) A statement of matters officially noticed;

(d) Questions and offers of proof, objections, and ruling thereon;

(e) Proposed findings and exceptions;

(f) Any decision, opinion, or report by the officer presiding at the hearing.

(6) Oral proceedings shall be transcribed for the purposes of agency decision pursuant to RCW 34.04.110, as now or hereafter amended, rehearing, or court review. A copy of the record or any part thereof shall be transcribed and furnished to any party to the hearing upon request therefor and payment of the reasonable costs thereof.

(7) Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

(8) Each agency shall adopt appropriate rules of procedure for notice and hearing in contested cases.

(9) Agencies, or their authorized agents, may:

(a) Administer oaths and affirmations, examine witnesses, and receive evidence, and no person shall be compelled to divulge information which he could not be compelled to divulge in a court of law,

(b) Issue subpoenas as provided in RCW 34.04.105,

(c) Rule upon offers of proof and receive relevant evidence,

(d) Take or cause depositions to be taken pursuant to rules promulgated by the agency, and no person shall be compelled to divulge information which he could not be compelled to divulge by deposition in connection with a court proceeding,

(e) Regulate the course of the hearing,

(f) Hold conferences for the settlement or simplification of the issues by consent of the parties,

(g) Dispose of procedural requests or similar matters,

(h) Issue summary orders,

(i) Make decisions or proposals for decisions pursuant to RCW 34.04.110,

(j) Take any other action authorized by agency rule consistent with this chapter. [1980 c 31 § 1; 1967 c 237 § 9; 1959 c 234 § 9.]

34.04.133 Contested cases—Direct review by court of appeals. The final decision of an administrative agency in a contested case under chapter 34.04 RCW may be directly reviewed by the court of appeals upon certification by the superior court pursuant to this section. An application for such direct review must be filed with the superior court within thirty days of the filing of the petition for review in superior court. The superior court may certify a case for direct review only if the judicial review is limited to the record of the agency proceeding and the court finds that:

(1) Fundamental and urgent issues affecting the future administrative process or the public interest are involved which require a prompt determination;

(2) Delay in obtaining a final and prompt determination of such issues would be detrimental to any party or the public interest;

(3) An appeal to the court of appeals would be likely regardless of the determination in superior court; and

(4) The appellate court's determination in the proceeding would have significant precedential value. [1980 c 76 § 1.]

34.04.135 Contested cases—Refusal of review by court of appeals. The court of appeals may refuse to accept review of a case certified pursuant to RCW 34.04.133. The refusal to accept such review is not subject to further appellate review, notwithstanding anything in Rule 13.3 of the Rules of Appellate Procedure to the contrary. [1980 c 76 § 2.]

34.04.160 Legislative review of rules. All rules required to be filed pursuant to RCW 34.04.040 shall be subject to review by the legislature to determine whether such rules are within the intent of the statutes purporting to authorize the adoption thereof. The legislative council may biennially review agency regulations to determine if the legislative intent is being correctly followed. A comprehensive report of said biennial review with recommendations shall be submitted to the members of the legislature ten days prior to the start of each regular session during an odd-numbered year. [1980 c 87 § 12; 1963 c 186 § 1.]

Reviser's note: RCW 34.04.160 was also repealed by 1980 c 186 § 28, without cognizance of its amendment by 1980 c 87 § 12.

34.04.160 Legislative review of rules. [1963 c 186 § 1.] Repealed by 1980 c 186 § 28.

Reviser's note: This section was also amended by 1980 c 87 § 12 without cognizance of the repeal thereof.

34.04.170 Provisions applicable to licenses and licensing. (1) When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, an existing full, temporary, or provisional license does not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

(2) If the agency finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined. [1980 c 33 § 1; 1967 c 237 § 8.]

Chapter 34.08

WASHINGTON STATE REGISTER ACT OF 1977

Sections

34.08.020 Washington State Register created—Publication period—Contents.

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 no less than 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 may 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;

(5) Rules of the state supreme court which have been adopted but not yet published in an official permanent codification; and

(6) Summaries of attorney general opinions and letter opinions, noting the number, date, subject, and other information, and prepared by the attorney general for inclusion in the register. [1980 c 186 § 15; 1977 ex.s. c 240 § 3.]

Severability—1980 c 186: See note following RCW 34.04.045. *Schedule of regular meetings of state agencies:* RCW 42.30.075.

Title 35

CITIES AND TOWNS

Chapters

- 35.20 Municipal courts—Cities over four hundred thousand.**
- 35.22 First class cities.**
- 35.23 Second class cities.**
- 35.24 Third class cities.**
- 35.27 Towns.**
- 35.39 Fiscal—Finance committee—Investment of funds.**
- 35.82 Housing authorities law.**
- 35.86A Off-street parking—Parking commissions.**
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Chapter 35.20

MUNICIPAL COURTS—CITIES OVER FOUR HUNDRED THOUSAND

Sections

- 35.20.030 Jurisdiction—Review—Costs. (Effective until January 1, 1981.)
- 35.20.030 Jurisdiction—Review—Costs. (Effective January 1, 1981.)
- 35.20.090 Trial by jury—Juror's fees. (Effective until January 1, 1981.)
- 35.20.090 Trial by jury—Juror's fees. (Effective January 1, 1981.)
- 35.20.205 Judicial officers—Hearing examiner. (Effective January 1, 1981.)

- 35.20.250 Concurrent jurisdiction with superior court and justices of the peace. (Effective until January 1, 1981.)
- 35.20.250 Concurrent jurisdiction with superior court and justices of the peace. (Effective January 1, 1981.)

35.20.030 Jurisdiction—Review—Costs. (Effective until January 1, 1981.) The municipal court shall have exclusive original jurisdiction to try violations of all city ordinances and all other actions brought to enforce or recover license penalties or forfeitures declared or given by any such ordinances. It is empowered to forfeit cash bail or bail bonds and issue execution thereon, to hear and determine all causes, civil or criminal, arising under such ordinances, and to pronounce judgment in accordance therewith: *Provided*, That for a violation of the criminal provisions of an ordinance no greater punishment shall be imposed than a fine of five hundred dollars or imprisonment in the city jail not to exceed six months, or both such fine and imprisonment. All civil and criminal proceedings in municipal court, and judgments rendered therein, shall be subject to review in the superior court by writ of review or on appeal. Costs in civil and criminal cases may be taxed as provided in justice of the peace courts. [1965 c 7 § 35.20.030. Prior: 1955 c 290 § 3.]

35.20.030 Jurisdiction—Review—Costs. (Effective January 1, 1981.) The municipal court shall have exclusive original jurisdiction to try violations of all city ordinances and all other actions brought to enforce or recover license penalties or forfeitures declared or given by any such ordinances. It is empowered to forfeit cash bail or bail bonds and issue execution thereon, to hear and determine all causes, civil or criminal, arising under such ordinances, and to pronounce judgment in accordance therewith: *Provided*, That for a violation of the criminal provisions of an ordinance no greater punishment shall be imposed than a fine of five hundred dollars or imprisonment in the city jail not to exceed six months, or both such fine and imprisonment. All civil and criminal proceedings in municipal court, and judgments rendered therein, shall be subject to review in the superior court by writ of review or on appeal: *Provided*, That an appeal from the court's determination or order in a traffic infraction proceeding may be taken only in accordance with RCW 46.63.090(5). Costs in civil and criminal cases may be taxed as provided in justice of the peace courts. [1979 ex.s. c 136 § 23; 1965 c 7 § 35.20.030. Prior: 1955 c 290 § 3.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

35.20.090 Trial by jury—Juror's fees. (Effective until January 1, 1981.) 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 may receive up to twenty-five dollars but in no case less than ten dollars for each day in attendance upon the municipal court, and in addition thereto shall receive mileage at the rate determined under RCW 43.03.060: *Provided*, That the compensation paid jurors shall be determined by the legislative authority of the city and shall be uniformly applied. 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. [1979 ex.s. c 135 § 8. Prior: 1977 ex.s. c 248 § 3; 1977 ex.s. c 53 § 3; 1969 ex.s. c 147 § 8; 1965 c 7 § 35.20.090; prior: 1955 c 290 § 9.]

Severability—1979 ex.s. c 135: See note following RCW 2.36.060.

35.20.090 Trial by jury—Juror's fees. (Effective January 1, 1981.) 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: *Provided*, That no jury trial may be held on a proceeding involving a traffic infraction. 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 may receive up to twenty-five dollars but in no case less than ten dollars for each day in attendance upon the municipal court, and in addition thereto shall receive mileage at the rate determined under RCW 43.03.060: *Provided*, That the compensation paid jurors shall be determined by the legislative authority of the city and shall be uniformly applied. 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. [1980 c 148 § 6. Prior: 1979 ex.s. c 136 § 24; 1979 ex.s. c 135 § 8; prior: 1977 ex.s. c 248 § 3; 1977 ex.s. c 53 § 3; 1969 ex.s. c 147 § 8; 1965 c 7 § 35.20.090; prior: 1955 c 290 § 9.]

Effective date—1980 c 148: See note following RCW 46.10.090.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Severability—1979 ex.s. c 135: See note following RCW 2.36.060.

35.20.205 Judicial officers—Hearing examiner. (Effective January 1, 1981.) The judges of the municipal court may employ judicial officers to assist in the administration of justice and the accomplishment of the work of the court as said work may be assigned to it by statute or ordinance. The duties and responsibilities of such officers shall be judicial in nature and shall be fixed by court rule as adopted by the municipal court

judges or fixed by ordinance of the city. The judicial officers may be authorized to hear and determine cases involving the commission of traffic infractions as provided in chapter 46.63 RCW. The mayor may appoint the judicial officers as judges pro tempore pursuant to RCW 35.20.200: *Provided*, That the judicial officer need not be a resident of the city.

To utilize the services of such judicial officers for the purpose of hearing contested matters relating to the interest of the city and its citizens and the operation of the various departments of the city, the city may by ordinance create the office of hearing examiner in the municipal court and assign to it judicial duties and responsibilities. [1980 c 128 § 7; 1975 1st ex.s. c 214 § 1.]

Effective date—Severability—1980 c 128: See notes following RCW 46.63.060.

35.20.250 Concurrent jurisdiction with superior court and justices of the peace. (Effective until January 1, 1981.) The municipal court shall have concurrent jurisdiction with the superior court and justices of the peace in all civil and criminal matters as now provided by law for justices of the peace, and a judge thereof may sit in preliminary hearings as magistrate. Fines and forfeitures before the court under the provisions of this section shall be paid to the county treasurer as provided for justices of the peace and commitments shall be to the county jail. Appeals from judgment or order of the court in such cases shall be governed by the law pertaining to appeals from judgments or orders of justices of the peace. [1969 ex.s. c 147 § 7; 1965 c 7 § 35.20.250. Prior: 1955 c 290 § 25.]

35.20.250 Concurrent jurisdiction with superior court and justices of the peace. (Effective January 1, 1981.) The municipal court shall have concurrent jurisdiction with the superior court and justices of the peace in all civil and criminal matters as now provided by law for justices of the peace, and a judge thereof may sit in preliminary hearings as magistrate. Fines, penalties, and forfeitures before the court under the provisions of this section shall be paid to the county treasurer as provided for justices of the peace and commitments shall be to the county jail. Appeals from judgment or order of the court in such cases shall be governed by the law pertaining to appeals from judgments or orders of justices of the peace. [1979 ex.s. c 136 § 25; 1969 ex.s. c 147 § 7; 1965 c 7 § 35.20.250. Prior: 1955 c 290 § 25.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Chapter 35.22

FIRST CLASS CITIES

Sections

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| 35.22.510 | Costs and fees. (Effective until January 1, 1981.) |
| 35.22.510 | Costs and fees. (Effective January 1, 1981.) |
| 35.22.530 | Appeal from police court—Procedure. (Effective until January 1, 1981.) |

35.22.530 Appeal from police court—Procedure. (Effective January 1, 1981.)

35.22.510 Costs and fees. (Effective until January 1, 1981.) In all civil and criminal cases arising from the violations of city ordinances tried by such police judge he shall charge up as costs in each case the same fees as are charged by justices of the peace for like services in every action, and all fees so charged and collected by, and all fines and forfeitures paid to, such police judge shall belong to and be paid over by him weekly, to the city. [1965 c 7 § 35.22.510. Prior: 1899 c 85 § 8; RRS § 8998.]

35.22.510 Costs and fees. (Effective January 1, 1981.) In all civil and criminal cases arising from the violations of city ordinances tried by such police judge he shall charge up as costs in each case the same fees as are charged by justices of the peace for like services in every action, and all fees so charged and collected by, and all fines, penalties, and forfeitures paid to, such police judge shall belong to and be paid over by him weekly, to the city. [1979 ex.s. c 136 § 26; 1965 c 7 § 35.22.510. Prior: 1899 c 85 § 8; RRS § 8998.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

35.22.530 Appeal from police court—Procedure. (Effective until January 1, 1981.) All civil or criminal proceedings before such police judge and judgment rendered by him shall be subject to review in the superior court of the proper county by writ of review or appeal.

The appeal shall be to the superior court of the county in which the police court is located and shall be taken by orally giving notice thereof in open court at the time the judgment is rendered or by serving a copy of a written notice thereof upon the corporation counsel or city attorney and filing the original thereof with acknowledgment or affidavit of service with the police judge within ten days after the judgment was pronounced. After notice of appeal is given as herein required, appellant shall diligently prosecute his appeal and, within thirty days from the date of entry of judgment, shall file with the clerk of the superior court a transcript duly certified by the police judge, furnished by such police judge without charge, and containing a copy of all written pleadings and docket entries of the police court. Within ten days after the transcript is filed, appellant shall note the case for trial. The case shall be set for trial at the earliest open date thereafter and the clerk of the court shall, in writing, notify the corporation counsel or city attorney of the date thereof. [1965 c 7 § 35.22.530. Prior: (i) 1923 c 182 § 2, part; 1903 c 30 § 1, part; 1899 c 85 § 3, part; RRS § 8993. (ii) 1937 c 79 § 1; RRS § 8993-1.]

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35.22.530 Appeal from police court—Procedure. (Effective January 1, 1981.) All civil or criminal proceedings before such police judge and judgment rendered by him shall be subject to review in the superior

court of the proper county by writ of review or appeal: *Provided*, That an appeal from a court's determination or order in a traffic infraction proceeding may be taken only in accordance with RCW 46.63.090(5).

The appeal shall be to the superior court of the county in which the police court is located and shall be taken by orally giving notice thereof in open court at the time the judgment is rendered or by serving a copy of a written notice thereof upon the corporation counsel or city attorney and filing the original thereof with acknowledgment or affidavit of service with the police judge within ten days after the judgment was pronounced. After notice of appeal is given as herein required, appellant shall diligently prosecute his appeal and, within thirty days from the date of entry of judgment, shall file with the clerk of the superior court a transcript duly certified by the police judge, furnished by such police judge without charge, and containing a copy of all written pleadings and docket entries of the police court. Within ten days after the transcript is filed, appellant shall note the case for trial. The case shall be set for trial at the earliest open date thereafter and the clerk of the court shall, in writing, notify the corporation counsel or city attorney of the date thereof. [1979 ex.s. c 136 § 27; 1965 c 7 § 35-22.530. Prior: (i) 1923 c 182 § 2, part; 1903 c 30 § 1, part; 1899 c 85 § 3, part; RRS § 8993. (ii) 1937 c 79 § 1; RRS § 8993-1.]

Rules for courts of limited jurisdiction: Vol. 0.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Chapter 35.23 SECOND CLASS CITIES

Sections

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| 35.23.440 | Specific powers enumerated. (Effective until January 1, 1981.) |
| 35.23.440 | Specific powers enumerated. (Effective January 1, 1981.) |

35.23.440 Specific powers enumerated. (Effective until January 1, 1981.) The city council of each second class city shall have power and authority:

(1) Ordinances: To make and pass all ordinances, orders and resolutions not repugnant to the Constitution of the United States or the state of Washington, or the provisions of this title, necessary for the municipal government and management of the affairs of the city, for the execution of the powers vested in said body corporate, and for the carrying into effect of the provisions of this title.

(2) License of shows: To fix and collect a license tax, for the purposes of revenue and regulation, on theatres, melodeons, balls, concerts, dances, theatrical, circus or other performances, and all performances where an admission fee is charged, or which may be held in any house or place where wines or liquors are sold to the participants; also all shows, billiard tables, pool tables, bowling alleys, exhibitions, or amusements.

(3) Hotels, etc., licenses: To fix and collect a license tax for the purposes of revenue and regulation on and to

regulate all taverns, hotels, restaurants, banks, brokers, manufactories, livery stables, express companies and persons engaged in transmitting letters or packages, railroad, stage and steamboat companies or owners, whose principal place of business is in such city, or who have an agency therein.

(4) Auctioneers' licenses: To license and regulate auctioneers for the purposes of revenue and regulation.

(5) Peddlers', etc., licenses: To license, for the purposes of revenue and regulation, tax, prohibit, suppress and regulate all raffles, hawkers, peddlers, pawnbrokers, refreshment or coffee stands, booths or sheds; and to regulate as authorized by state law all tipling 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 non-conformity 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 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 ex.s. c 316: See note following RCW 70.48.010.

35.23.440 Specific powers enumerated. (Effective January 1, 1981.) 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

poundkeeper, who shall be paid out of the fines and fees imposed and collected of the owners of any animals impounded, and from no other source; to prevent and regulate the running at large of any and all domestic animals within the city limits or any parts thereof, and to regulate or prevent the keeping of such animals within any part of the city.

(13) Control of certain trades: To control and regulate slaughterhouses, washhouses, laundries, tanneries, forges, and offensive trades, and to provide for their exclusion or removal from the city limits, or from any part thereof.

(14) Street cleaning: To provide, by regulation, for the prevention and summary removal of all filth and garbage in streets, sloughs, alleys, back yards, or public grounds of such city, or elsewhere therein.

(15) 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: *Provided*, That violation of an order, regulation, or ordinance relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of an order, regulation, or ordinance equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor.

(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 non-conformity 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. [1979 ex.s. c 136 § 28; 1977 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.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Severability—1977 ex.s. c 316: See note following RCW 70.48.010.

Chapter 35.24 THIRD CLASS CITIES

Sections

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| 35.24.460 | Police judge—Jurisdiction. (Effective until January 1, 1981.) |
| 35.24.460 | Police judge—Jurisdiction. (Effective January 1, 1981.) |
| 35.24.470 | Police judge—Review of decisions—Procedure. (Effective until January 1, 1981.) |
| 35.24.470 | Police judge—Review of decisions—Procedure. (Effective January 1, 1981.) |

35.24.460 Police judge—Jurisdiction. (Effective until January 1, 1981.) The police judge so appointed shall have exclusive jurisdiction over all offenses defined by any ordinance of the city, and all other actions brought to enforce or recover any license, penalty or forfeiture declared or given by any such ordinance, and full power to forfeit bail bonds and issue execution thereon and full power to forfeit cash bail, and full power and authority to hear and determine all causes, civil or criminal, arising under such ordinance, and pronounce judgment in accordance therewith: *Provided*, That for the violation of a criminal ordinance no greater punishment shall be imposed than the fine or imprisonment or both such fine and imprisonment prescribed by ordinance. In the trial of actions brought for the violation of any city ordinance, no jury shall be allowed. [1965 ex.s. c 116 § 12; 1965 c 94 § 2; 1965 c 7 § 35.24.460. Prior: 1919 c 113 § 2, part; 1915 c 184 § 29, part; 1890 p 196 § 138; RRS § 9143, part.]

35.24.460 Police judge—Jurisdiction. (Effective January 1, 1981.) The police judge so appointed shall have exclusive jurisdiction over all offenses defined by any ordinance of the city, and all other actions brought to enforce or recover any license, penalty or forfeiture declared or given by any such ordinance, and full power to forfeit bail bonds and issue execution thereon and full power to forfeit cash bail, and full power and authority to hear and determine all causes, civil or criminal, including traffic infractions, arising under such ordinance, and pronounce judgment in accordance therewith: *Provided*, That for the violation of a criminal ordinance no greater punishment shall be imposed than the fine or

imprisonment or both such fine and imprisonment prescribed by ordinance. In the trial of actions brought for the violation of any city ordinance, no jury shall be allowed. [1979 ex.s. c 136 § 29; 1965 ex.s. c 116 § 12; 1965 c 94 § 2; 1965 c 7 § 35.24.460. Prior: 1919 c 113 § 2, part; 1915 c 184 § 29, part; 1890 p 196 § 138; RRS § 9143, part.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

35.24.470 Police judge—Review of decisions—Procedure. (Effective until January 1, 1981.) All civil or criminal proceedings before such police judge and judgments rendered by him shall be subject to review in the superior court of the proper county by writ of review or appeal in the same manner as is provided in RCW 35.22.530 through 35.22.560. In actions brought before such police judge to enforce or recover any license, penalty or forfeiture declared or given by any ordinance, and in all other civil actions, the manner of commencing the same, the manner of obtaining service upon the defendants, the procedure during the pendency of the action and for the enforcement of the judgment obtained, if any, shall be as provided in the case of civil actions before justices of the peace. [1965 ex.s. c 116 § 13; 1965 c 7 § 35.24.470. Prior: 1919 c 113 § 2, part; 1915 c 184 § 29, part; 1890 p 196 § 138; RRS § 9143, part.]

35.24.470 Police judge—Review of decisions—Procedure. (Effective January 1, 1981.) All civil or criminal proceedings before such police judge and judgments rendered by him shall be subject to review in the superior court of the proper county by writ of review or appeal in the same manner as is provided in RCW 35.22.530 through 35.22.560: *Provided*, That an appeal from the court's determination or order on a traffic infraction proceeding may be taken only in accordance with RCW 46.63.090(5). In actions brought before such police judge to enforce or recover any license, penalty, or forfeiture declared or given by any ordinance, and in all other civil actions, the manner of commencing the same, the manner of obtaining service upon the defendants, the procedure during the pendency of the action and for the enforcement of the judgment obtained, if any, shall be as provided in the case of civil actions before justices of the peace. [1979 ex.s. c 136 § 30; 1965 ex.s. c 116 § 13; 1965 c 7 § 35.24.470. Prior: 1919 c 113 § 2, part; 1915 c 184 § 29, part; 1890 p 196 § 138; RRS § 9143, part.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Chapter 35.27 TOWNS

Sections

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| 35.27.530 | Police justice—Jurisdiction. (Effective until January 1, 1981.) |
| 35.27.530 | Police justice—Jurisdiction. (Effective January 1, 1981.) |
| 35.27.540 | Police justice—Procedure—Review. (Effective until January 1, 1981.) |

35.27.540 Police justice—Procedure—Review. (Effective January 1, 1981.)

35.27.530 Police justice—Jurisdiction. (Effective until January 1, 1981.) The police justice in addition to his powers as justice of the peace, if he is a justice of the peace shall have exclusive jurisdiction over all offenses defined by any ordinance of the town and all other actions brought to enforce or recover any license, penalty, or forfeiture declared or given by any ordinance with full power to forfeit bail, issue executions on bail bonds, and hear and determine all causes, civil or criminal, arising under any ordinance and pronounce judgment in accordance therewith: *Provided*, That for the violation of a criminal ordinance no greater punishment shall be imposed than the fine or imprisonment or both such fine or imprisonment prescribed by ordinance. [1965 ex.s. c 116 § 17; 1965 c 7 § 35.27.530. Prior: 1921 c 70 § 1, part; 1890 p 214 § 174, part; RRS § 9192, part.]

35.27.530 Police justice—Jurisdiction. (Effective January 1, 1981.) The police justice in addition to his powers as justice of the peace, if he is a justice of the peace shall have exclusive jurisdiction over all offenses defined by any ordinance of the town and all other actions brought to enforce or recover any license, penalty, or forfeiture declared or given by any ordinance with full power to forfeit bail, issue executions on bail bonds, and hear and determine all causes, civil or criminal, including traffic infractions, arising under any ordinance and pronounce judgment in accordance therewith: *Provided*, That for the violation of a criminal ordinance no greater punishment shall be imposed than the fine or imprisonment or both such fine or imprisonment prescribed by ordinance. [1979 ex.s. c 136 § 31; 1965 ex.s. c 116 § 17; 1965 c 7 § 35.27.530. Prior: 1921 c 70 § 1, part; 1890 p 214 § 174, part; RRS § 9192, part.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

35.27.540 Police justice—Procedure—Review. (Effective until January 1, 1981.) In actions brought before the police justice to enforce or recover any license, penalty, or forfeiture declared or given by any ordinance and in all other civil actions, the manner of commencing them, the manner of obtaining service upon the defendants, the procedure during the pendency of the action and for the enforcement of the judgment shall be as provided in the case of civil actions before justices of the peace.

In the trial of actions brought for violations of town ordinances no jury shall be allowed and no change of venue shall be allowed from the police judge.

All civil and criminal proceedings before a police justice and judgments rendered by him shall be subject to review in the superior court of the proper county by writ of review or appeal in the same manner as is provided in RCW 35.22.530 through 35.22.560. [1965 ex.s. c 116 § 18; 1965 c 7 § 35.27.540. Prior: 1921 c 70 § 1, part; 1890 p 214 § 174, part; RRS § 9192, part.]

35.27.540 Police justice—Procedure—Review. (Effective January 1, 1981.) In actions brought before the police justice to enforce or recover any license, penalty, or forfeiture declared or given by any ordinance and in all other civil actions, the manner of commencing them, the manner of obtaining service upon the defendants, the procedure during the pendency of the action and for the enforcement of the judgment shall be as provided in the case of civil actions before justices of the peace.

In the trial of actions brought for violations of town ordinances no jury shall be allowed and no change of venue shall be allowed from the police judge.

All civil and criminal proceedings before a police justice and judgments rendered by him shall be subject to review in the superior court of the proper county by writ of review or appeal in the same manner as is provided in RCW 35.22.530 through 35.22.560: *Provided*, That an appeal from the court's determination or order in a traffic infraction proceeding may be taken only in accordance with RCW 46.63.090(5). [1979 ex.s. c 136 § 32; 1965 ex.s. c 116 § 18; 1965 c 7 § 35.27.540. Prior: 1921 c 70 § 1, part; 1890 p 214 § 174, part; RRS § 9192, part.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Chapter 35.39

FISCAL—FINANCE COMMITTEE— INVESTMENT OF FUNDS

Sections

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| 35.39.040 | Repealed. |
| 35.39.041 | Investment of pension funds. |

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

35.39.041 Investment of pension funds. Any city or town now or hereafter operating an employee's pension system with the approval of the board otherwise responsible for the management of its respective funds has full power to invest and reinvest funds over which it has investment authority in the following classes of investments, and not otherwise, and to sell or exchange investments acquired in the exercise of that authority:

(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, 1916, 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 provided in this subsection, investments may be made 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) A pension system shall 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 board shall receive advice in writing on all stock investments from an investment counsel. Such advice shall become part of the official minutes of the next succeeding meeting of the board. 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;

(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 obligations 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 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. [1980 c 34 § 1.]

Chapter 35.82

HOUSING AUTHORITIES LAW

Sections

35.82.300

Joint city-county housing authorities—Creation authorized—Contents of ordinances creating—Powers.

35.82.300 Joint city-county housing authorities—Creation authorized—Contents of ordinances creating—Powers. This section applies to all counties.

(1) Joint city-county housing authorities are hereby authorized when the legislative authority of the county and the legislative authority of any city or cities within the county have authorized such joint city-county housing authorities by ordinance.

(2) The ordinance enacted by the legislative authorities creating the joint housing authority shall prescribe the number of commissioners, the method for their appointment and length of their terms, the election of officers, and the method for removal of commissioners.

(3) The ordinances enacted by the legislative authorities creating the joint housing authority shall prescribe the allocation of all costs of the joint housing authority and any other matters necessary for the operation of the joint housing authority.

(4) A joint city-county housing authority shall have all the powers as prescribed by this chapter for any housing authority. The area of operation of a joint city-county authority shall be the combined areas of each as they are defined by RCW 35.82.020(6).

(5) The provisions of RCW 35.82.040 and 35.82.060 as now or hereafter amended shall not apply to a joint city-county housing authority created pursuant to this section. [1980 c 25 § 1.]

Chapter 35.86A
OFF-STREET PARKING—PARKING
COMMISSIONS

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| Sections | |
| 35.86A.070 | Powers and authority of parking commission. |
| 35.86A.120 | Operation of parking facilities—Bid requirements and procedure. |

35.86A.070 Powers and authority of parking commission. The parking commission is authorized and empowered, in the name of the municipality by resolution to:

(1) Own and acquire property and property rights by purchase, gift, devise, or lease for the construction, maintenance, or operation of off-street parking facilities, or for effectuating the purpose of this chapter; and accept grants-in-aid, including compliance with conditions attached thereto;

(2) Construct, maintain, and operate off-street parking facilities located on land dedicated for park or civic center purposes, or on other municipally-owned land where the primary purpose of such off-street parking facility is to provide parking for persons who use such park or civic center facilities, and undertake research, and prepare plans incidental thereto subject to applicable statutes and charter provisions for municipal purchases, expenditures, and improvements; and in addition may own other off-street parking facilities and operate them in accordance with RCW 35.86A.120: *Provided*, That the provisions of chapter 35.86 RCW as now or hereafter amended shall not apply to such construction, operation or maintenance;

(3) Establish and collect parking fees, require that receipts be provided for parking fees, make exemption for handicapped persons, lease space for commercial, store, advertising or automobile accessory purposes, and regulate prices and service charges, for use of and within and the aerial space over parking facilities under its control;

(4) Subject to applicable city civil service provisions, provide for the appointment, removal and control of officers and employees, and prescribe their duties and compensation, and to control all equipment and property under the commission's jurisdiction;

(5) Contract with private persons and organizations for the management and/or operation of parking facilities under its control, and services related thereto, including leasing of such facilities or portions thereof;

(6) Cause construction of parking facilities as a condition of an operating agreement or lease, derived through competitive bidding, or in the manner authorized by chapter 35.42 RCW;

(7) Execute and accept instruments, including deeds, necessary or convenient for the carrying on of its business; acquire rights to develop parking facilities over or under city property; and to contract to operate and manage parking facilities under the jurisdiction of other city departments or divisions and of other public bodies;

(8) Determine the need for and recommend to the city council:

(a) The establishment of local improvement districts to pay the cost of parking facilities or any part thereof;

(b) The issuance of bonds or other financing by the city for construction of parking facilities;

(c) The acquisition of property and property rights by condemnation from the public, or in street areas;

(9) Transfer its control of property to the city and liquidate its affairs, so long as such transfer does not contravene any covenant or agreement made with the holders of bonds or other creditors; and

(10) Require payment of the excise tax hereinafter provided.

Parking fees for parking facilities under the control of the parking commission shall be maintained commensurate with and neither higher nor lower than prevailing rates for parking charged by commercial operators in the general area. [1980 c 127 § 1; 1975 1st ex.s. c 221 § 3; 1969 ex.s. c 204 § 7.]

Severability—1975 1st ex.s. c 221: See note following RCW 35.86.010.

35.86A.120 Operation of parking facilities—Bid requirements and procedure. Except for off-street parking facilities situated on real property leased or rented to a city and not used for park and civic center parking, cities may operate off-street parking facilities with city forces. Leased or rented off-street parking facilities shall be operated by responsible, experienced private operators of such facilities. The call for bids shall specify the terms and conditions under which the facility will be leased for private operation. The call for bids shall specify the time and place at which the bids will be received and the time and when the same will be opened, and such call shall be advertised once a week for two successive weeks before the time fixed for the filing of bids in a newspaper of general circulation in the city. If no bid is received for the operation of such an off-street parking facility, or if the bids received are not satisfactory, the legislative body of the city may reject such bids and shall readvertise the facility for lease. In the event that no bids or no satisfactory bids shall have been received following the second advertising, the city may negotiate with a private operator for the operation of the facility without competitive bidding. In the event the city shall be unable to negotiate for satisfactory private operation within a reasonable time, the city may operate the facility for a period not to exceed three years, at which time it shall readvertise as provided above in this section. [1980 c 127 § 2; 1975 1st ex.s. c 221 § 4; 1969 ex.s. c 204 § 12.]

Severability—1975 1st ex.s. c 221: See note following RCW 35.86.010.

Chapter 35.92
MUNICIPAL UTILITIES

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| Sections | |
| 35.92.380 | Waiver or delay of collection of tap-in charges, connection or hookup fees for low income persons. |

35.92.380 Waiver or delay of collection of tap-in charges, connection or hookup fees for low income persons. Whenever a city or town waives or delays collection of tap-in charges, connection fees, or hookup fees for low income persons, or class of low income persons, to connect to lines or pipes used by the city or town to provide utility service, the waiver or delay shall be pursuant to a program established by ordinance. As used in this section, the provision of "utility service" includes, but is not limited to, water, sanitary or storm sewer service, electricity, gas, other means of power, and heat. [1980 c 150 § 1.]

Title 35A

OPTIONAL MUNICIPAL CODE

Chapters

35A.20 Municipal courts or police courts in code cities.

Chapter 35A.20

MUNICIPAL COURTS OR POLICE COURTS IN CODE CITIES

Sections

| | |
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| 35A.20.040 | Jurisdiction of police judge. (Effective until January 1, 1981.) |
| 35A.20.040 | Jurisdiction of police judge. (Effective January 1, 1981.) |
| 35A.20.080 | Costs. (Effective until January 1, 1981.) |
| 35A.20.080 | Costs. (Effective January 1, 1981.) |

35A.20.040 Jurisdiction of police judge. (Effective until January 1, 1981.) The police judge, in addition to powers he may have as justice of the peace, shall have exclusive jurisdiction over all offenses defined by any ordinance of the city, and all other actions brought to enforce or recover any license, penalty, or forfeiture declared or given by any such ordinance, and full power to forfeit bail bonds and issue execution thereon and full power to forfeit cash bail, and full power and authority to hear and determine all causes, civil or criminal, arising under such ordinance, and pronounce judgment in accordance therewith and full power to issue all warrants and process necessary to effectuate the ordinances of the city. Such police judge shall have jurisdiction to impose a fine or imprisonment, or both such fine and imprisonment, in all cases where such penalty shall be prescribed by ordinance. In the trial of actions brought for violating any city ordinance, no jury shall be allowed. All civil or criminal proceedings before such police judge and judgments rendered by him, shall be subject to review in the superior court of the proper county by writ of review or appeal in the same manner as is provided in RCW 35.22.530 through 35.22.560. [1967 ex.s. c 119 § 35A.20.040.]

35A.20.040 Jurisdiction of police judge. (Effective January 1, 1981.) The police judge, in addition to powers

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he may have as justice of the peace, shall have exclusive jurisdiction over all offenses defined by any ordinance of the city, and all other actions brought to enforce or recover any license, penalty, or forfeiture declared or given by any such ordinance, and full power to forfeit bail bonds and issue execution thereon and full power to forfeit cash bail, and full power and authority to hear and determine all causes, civil or criminal, including traffic infractions, arising under such ordinance, and pronounce judgment in accordance therewith and full power to issue all warrants and process necessary to effectuate the ordinances of the city. Such police judge shall have jurisdiction to impose a fine or imprisonment, or both such fine and imprisonment, in all cases where such penalty shall be prescribed by ordinance. In the trial of actions brought for violating any city ordinance, no jury shall be allowed. All civil or criminal proceedings before such police judge and judgments rendered by him, shall be subject to review in the superior court of the proper county by writ of review or appeal in the same manner as is provided in RCW 35.22.530 through 35.22.560: *Provided*, That an appeal from the court's determination or order in a traffic infraction proceeding may be taken only in accordance with RCW 46.63.090(5). [1979 ex.s. c 136 § 33; 1967 ex.s. c 119 § 35A.20.040.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

35A.20.080 Costs. (Effective until January 1, 1981.) In all civil and criminal cases arising from the violations of city ordinances tried by such police judge he shall charge as costs in each case the same fees as are charged by justices of the peace for like services in every action, and all fees so charged and collected by, and all fines and forfeitures paid to, such police judge shall belong to and be paid over by him, weekly, to the city. [1967 ex.s. c 119 § 35A.20.080.]

35A.20.080 Costs. (Effective January 1, 1981.) In all civil and criminal cases arising from the violations of city ordinances tried by such police judge he shall charge as costs in each case the same fees as are charged by justices of the peace for like services in every action, and all fees so charged and collected by, and all fines, penalties, and forfeitures paid to, such police judge shall belong to and be paid over by him, weekly, to the city. [1979 ex.s. c 136 § 34; 1967 ex.s. c 119 § 35A.20.080.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Title 36 COUNTIES

Chapters

| | |
|--------------|---------------------------------|
| 36.18 | Fees of county officers. |
| 36.29 | County treasurer. |
| 36.32 | County commissioners. |
| 36.33 | County funds. |

- 36.34 County property.
- 36.67 Limitation of indebtedness—County bonds.
- 36.68 Parks and recreational facilities.
- 36.69 Recreation districts act.
- 36.75 Roads and bridges—General provisions.
- 36.77 Roads and bridges—Construction.
- 36.80 Roads and bridges—Engineer.
- 36.88 County road improvement districts.
- 36.94 Sewerage, water and drainage systems.
- 36.95 Television reception improvement districts.

Chapter 36.18

FEES OF COUNTY OFFICERS

Sections

- 36.18.010 Auditor's fees.
- 36.18.020 Clerk's fees.
- 36.18.027 Allocation of portion of filing fees for judicial information system.

36.18.010 Auditor's fees.

Family court funding, marriage license fee increase authorized: RCW 26.12.220.

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 sixty 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 sixty 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 fifteen 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 each garnishee defendant named in an affidavit for garnishment and for each writ of attachment, 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 sixty 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 sixty 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 four dollars.

(15) For searching records for which a written report is issued there shall be a fee of eight dollars per hour.

(16) 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 sixty dollars.

(17) 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.

(18) No fee shall be collected when a petition for relinquishment of parental rights is filed pursuant to RCW 26.36.010. [1980 c 70 § 1; 1977 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.]

36.18.027 Allocation of portion of filing fees for judicial information system. An amount equal to two dollars of each filing fee paid pursuant to RCW 36.18.020 (1), (2), (11), and (12), as now or hereafter amended, shall be allocated to the payment of costs associated with the judicial information system. The county treasurer shall transmit such payment each month to the state treasurer for deposit in the judicial information system account which is hereby created in the general fund. The money deposited in such account shall not be

spent for any purpose other than that stated in this section. [1980 c 70 § 2.]

Chapter 36.29 COUNTY TREASURER

Sections

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| 36.29.020 | Custodian of moneys—Investment of funds not required for immediate expenditures, service fee. |
| 36.29.040 | Interest on unpaid warrants. |
| 36.29.060 | Warrant calls. |

36.29.020 Custodian of moneys—Investment of funds not required for immediate expenditures, service fee. The county treasurer shall keep all moneys belonging to the state, or to any county, in his own possession until disbursed according to law. He shall not place the same in the possession of any person to be used for any purpose; nor shall he loan or in any manner use or permit any person to use the same; but it shall be lawful for a county treasurer to deposit any such moneys in any regularly designated qualified public depository. Any municipal corporation may by action of its governing body authorize any of its funds which are not required for immediate expenditure, and which are in the custody of the county treasurer or other municipal corporation treasurer, to be invested by such treasurer in savings or time accounts in banks, trust companies and mutual savings banks which are doing business in this state, up to the amount of insurance afforded such accounts by the federal deposit insurance corporation, or in savings or time accounts in savings and loan associations which are doing business in this state, up to the amount of insurance afforded such accounts by the federal savings and loan insurance corporation, or in certificates, notes, or bonds of the United States, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States; in bankers' acceptances purchased on the secondary market, in federal home loan bank notes and bonds, federal land bank bonds and federal national mortgage association notes, debentures and guaranteed certificates of participation, or the obligations 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 or deposit such funds or any portion thereof in investment deposits as defined in RCW 39.58.010 secured by collateral in accordance with the provisions of *chapter 193, Laws of 1969 ex. sess.: *Provided*, Five percent of the interest or earnings, with an annual minimum of ten dollars or annual maximum of fifty dollars, on any transactions authorized by each resolution of the governing body shall be paid as an investment service fee to the office of the county treasurer or other municipal corporation treasurer when the interest or earnings become available to the governing body.

Whenever the funds of any municipal corporation which are not required for immediate expenditure are in the custody or control of the county treasurer, and the governing body of such municipal corporation has not

taken any action pertaining to the investment of any such funds, the county finance committee shall direct the county treasurer to invest, to the maximum prudent extent, such funds or any portion thereof in savings or time accounts in mutual savings banks which are doing business in this state, up to the amount of insurance afforded such accounts by the federal savings and loan insurance corporation, or in certificates, notes, or bonds of the United States, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States, in bankers' acceptances purchased on the secondary market, in federal home loan bank notes and bonds, federal land bank bonds and federal national mortgage association notes, debentures and guaranteed certificates of participation, or the obligations 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 or deposit such funds or any portion thereof in investment deposits as defined in RCW 39.58.010 secured by collateral in accordance with the provisions of *chapter 193, Laws of 1969 ex. sess.: *Provided*, That the county treasurer shall have the power to select the specific qualified financial institution in which said funds may be invested. The interest or other earnings from such investments or deposits shall be deposited in the current expense fund of the county and may be used for general county purposes. The investment or deposit and disposition of the interest or other earnings therefrom authorized by this paragraph shall not apply to such funds as may be prohibited by the state Constitution from being so invested or deposited. [1980 c 56 § 1; 1979 c 57 § 1; 1973 1st ex.s. c 140 § 1; 1969 ex.s. c 193 § 26; 1967 c 173 § 1; 1965 c 111 § 2; 1963 c 4 § 36.29-.020. Prior: 1961 c 254 § 1; 1895 c 73 § 1; RRS § 4112.]

***Reviser's note:** Chapter 193, Laws of 1969 ex. sess. 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 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.

Construction—Severability—1969 ex.s. c 193: See notes following RCW 39.58.010.

Liability of treasurers for losses on public deposits: RCW 39.58.140.

Mutual savings banks—Deposit or investment of public funds: RCW 32.12.100.

36.29.040 Interest on unpaid warrants. All county, school, city and town warrants, and taxing district warrants when not otherwise provided for by law, shall be paid according to their number, date and issue, and when not paid upon presentation shall draw interest from the date of their presentation to the proper treasurers or from the date the warrants were originally issued, as determined by the proper treasurer. No compound interest shall be paid directly or indirectly on

any such warrants. [1980 c 100 § 3; 1963 c 4 § 36.29-.040. Prior: 1893 c 48 § 1, part; RRS § 4116, part.]

36.29.060 Warrant calls. Whenever the county treasurer has in his hands the sum of five hundred dollars belonging to any fund upon which warrants are outstanding, he shall make a call for such warrants to that amount in the order of their issue. The county treasurer shall either notify all holders of warrants covered by the call or cause such call to be published in some newspaper published in the county in the first issue of such newspaper after such sum has been accumulated, and if there is no such newspaper, the call shall be posted in three conspicuous places in the county. The call shall describe by number the warrants called, and specify the funds upon which they were drawn: *Provided*, That the board of county commissioners may prescribe a less sum than five hundred dollars, upon the accumulation of which the call shall be made as to any particular fund: *Provided further*, That if the warrant longest outstanding on any fund exceeds the sum of five hundred dollars, or exceeds the sum fixed by the board of county commissioners, no call need be made for warrants on such fund until the amount due on such warrant has accumulated. No more than two calls for the redemption of warrants shall be made by the treasurer in any month. The treasurer shall pay on demand, in the order of their issue, any warrants when there shall be in the treasury sufficient funds applicable to such payment. [1980 c 100 § 4; 1963 c 4 § 36.29.060. Prior: 1895 c 152 § 1, part; RRS § 4118, part.]

estimates for future assessments and taxes, to be deposited by any taxpayer prior to the due date thereof with the treasurer or other legal depository for the benefit of the funds to which they belong to be credited against any future tax or assessment that may be levied or become due from the taxpayer: *Provided further*, That the taxpayer, with the concurrence of the county legislative authority, may designate the particular fund against which such prepayment of future tax or assessment shall be credited;

(5) Allow all accounts legally chargeable against the county not otherwise provided for, and audit the accounts of all officers having the care, management, collection, or disbursement of any money belonging to the county or appropriated to its benefit;

(6) Have the care of the county property and the management of the county funds and business and in the name of the county prosecute and defend all actions for and against the county, and such other powers as are or may be conferred by law;

(7) Make and enforce, by appropriate resolutions or ordinances, all such police and sanitary regulations as are not in conflict with state law, and within the unincorporated area of the county may adopt by reference Washington state statutes and recognized codes and/or compilations printed in book form relating to the construction of buildings, the installation of plumbing, the installation of electric wiring, health, or other subjects, and may adopt such codes and/or compilations or portions thereof, together with amendments thereto, or additions thereto: *Provided*, That except for Washington state statutes, there shall be filed in the county auditor's office three copies of such codes and compilations ten days prior to their adoption by reference, and one copy shall also be filed with the city clerk of each city within the county: *Provided further*, That no such regulation, code, compilation, and/or statute shall be effective unless before its adoption, a public hearing has been held thereon by the county legislative authority of which at least ten days' notice has been given. Any violation of such regulations, ordinances, codes, compilations, and/or statutes or resolutions shall constitute a misdemeanor. The notice must set out a copy of the proposed regulations; or if a code is adopted by reference the notice shall set forth the full official title and a statement describing the general purpose of such code. The notice shall also include the day, hour, and place of hearing and must be given by publication in the newspaper in which legal notices of the county are printed;

(8) Have power to compound and release in whole or in part any debt due to the county when in their opinion the interest of their county will not be prejudiced thereby, except in cases where they or any of them are personally interested;

(9) Have power to administer oaths or affirmations necessary in the discharge of their duties and commit for contempt any witness refusing to testify before them with the same power as justices of the peace. [1975 1st ex.s. c 216 § 1; 1967 ex.s. c 59 § 1; 1963 c 4 § 36.32-.120. Prior: 1961 c 27 § 2; prior: (i) 1947 c 61 § 1; 1943 c 99 § 1; Code 1881 § 2673; 1869 p 305 § 11; 1867 p 54

Chapter 36.32

COUNTY COMMISSIONERS

Sections

- 36.32.120 Powers of legislative authority. (Effective until January 1, 1981.)
- 36.32.120 Powers of legislative authority. (Effective January 1, 1981.)

36.32.120 Powers of legislative authority. (Effective until January 1, 1981.) The legislative authorities of the several counties shall:

(1) Provide for the erection and repairing of court houses, jails, and other necessary public buildings for the use of the county;

(2) Lay out, discontinue, or alter county roads and highways within their respective counties, and do all other necessary acts relating thereto according to law, except within cities and towns which have jurisdiction over the roads within their limits;

(3) License and fix the rates of ferriage; grant grocery and other licenses authorized by law to be by them granted;

(4) Fix the amount of county taxes to be assessed according to the provisions of law, and cause the same to be collected as prescribed by law: *Provided*, That the legislative authority of a county may permit all moneys, assessments and taxes belonging to or collected for the use of any county, including any amounts representing

§ 11; 1863 p 542 § 11; 1854 p 421 § 11; Rem. Supp. 1947 § 4056. (ii) Code 1881 § 2681; 1869 p 307 § 20; 1867 p 56 § 20; 1863 p 543 § 20; 1854 p 422 § 20; RRS § 4061. (iii) Code 1881 § 2687; 1869 p 308 § 26; 1867 p 57 § 26; 1863 p 545 § 28; 1854 p 423 § 22; RRS § 4071.]

36.32.120 Powers of legislative authority. (Effective January 1, 1981.) The legislative authorities of the several counties shall:

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(3) License and fix the rates of ferriage; grant grocery and other licenses authorized by law to be by them granted;

(4) Fix the amount of county taxes to be assessed according to the provisions of law, and cause the same to be collected as prescribed by law: *Provided*, That the legislative authority of a county may permit all moneys, assessments, and taxes belonging to or collected for the use of any county, including any amounts representing estimates for future assessments and taxes, to be deposited by any taxpayer prior to the due date thereof with the treasurer or other legal depository for the benefit of the funds to which they belong to be credited against any future tax or assessment that may be levied or become due from the taxpayer: *Provided further*, That the taxpayer, with the concurrence of the county legislative authority, may designate the particular fund against which such prepayment of future tax or assessment shall be credited;

(5) Allow all accounts legally chargeable against the county not otherwise provided for, and audit the accounts of all officers having the care, management, collection, or disbursement of any money belonging to the county or appropriated to its benefit;

(6) Have the care of the county property and the management of the county funds and business and in the name of the county prosecute and defend all actions for and against the county, and such other powers as are or may be conferred by law;

(7) Make and enforce, by appropriate resolutions or ordinances, all such police and sanitary regulations as are not in conflict with state law, and within the unincorporated area of the county may adopt by reference Washington state statutes and recognized codes and/or compilations printed in book form relating to the construction of buildings, the installation of plumbing, the installation of electric wiring, health, or other subjects, and may adopt such codes and/or compilations or portions thereof, together with amendments thereto, or additions thereto: *Provided*, That except for Washington state statutes, there shall be filed in the county auditor's office three copies of such codes and compilations ten days prior to their adoption by reference, and one copy

shall also be filed with the city clerk of each city within the county: *Provided further*, That no such regulation, code, compilation, and/or statute shall be effective unless before its adoption, a public hearing has been held thereon by the county legislative authority of which at least ten days' notice has been given. Any violation of such regulations, ordinances, codes, compilations, and/or statutes or resolutions shall constitute a misdemeanor: *Provided further*, That violation of a regulation, ordinance, code, compilation, and/or statute relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of a regulation, ordinance, code, compilation, and/or statute equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor. The notice must set out a copy of the proposed regulations; or if a code is adopted by reference the notice shall set forth the full official title and a statement describing the general purpose of such code. The notice shall also include the day, hour, and place of hearing and must be given by publication in the newspaper in which legal notices of the county are printed;

(8) Have power to compound and release in whole or in part any debt due to the county when in their opinion the interest of their county will not be prejudiced thereby, except in cases where they or any of them are personally interested;

(9) Have power to administer oaths or affirmations necessary in the discharge of their duties and commit for contempt any witness refusing to testify before them with the same power as justices of the peace. [1979 ex.s. c 136 § 35; 1975 1st ex.s. c 216 § 1; 1967 ex.s. c 59 § 1; 1963 c 4 § 36.32.120. Prior: 1961 c 27 § 2; prior: (i) 1947 c 61 § 1; 1943 c 99 § 1; Code 1881 § 2673; 1869 p 305 § 11; 1867 p 54 § 11; 1863 p 542 § 11; 1854 p 421 § 11; Rem. Supp. 1947 § 4056. (ii) Code 1881 § 2681; 1869 p 307 § 20; 1867 p 56 § 20; 1863 p 543 § 20; 1854 p 422 § 20; RRS § 4061. (iii) Code 1881 § 2687; 1869 p 308 § 26; 1867 p 57 § 26; 1863 p 545 § 28; 1854 p 423 § 22; RRS § 4071.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Chapter 36.33 COUNTY FUNDS

Sections
36.33.110

Distribution of forest reserve funds. (Effective September 1, 1981.)

36.33.110 Distribution of forest reserve funds. (Effective September 1, 1981.) Of the moneys received by the state from the federal government in accordance with Title 16, section 500, United States Code, fifty percent shall be spent by the counties on public schools or public roads in the counties in the United States forest reserve from which such moneys were received. The remaining money shall be spent by the state on public schools in these counties subject to the limitation of the proportional area formula. Where the reserve is situated

in more than one county, the state treasurer shall determine the proportional area of the counties therein. The state treasurer is authorized and required to obtain the necessary information to enable him to make that determination.

The state treasurer shall distribute to the counties, according to the determined proportional area, the money to be spent by the counties on public roads or public schools. The county legislative authority shall expend said money for the benefit of the public roads or public schools of such county, and not otherwise.

The state treasurer shall distribute the remaining money to the state general fund to be dedicated for the benefit of public schools of the counties in the forest reserve subject to the limitation of the proportional area formula. If the proportionate share of the remaining money attributed to any school district exceeds the state's basic education apportionment to that school district for the previous year, the state treasurer shall disburse the excess to the county. The legislative authority of the respective county shall distribute such money to each school district according to the proportional number of annual average full time equivalent students enrolled in each school district during the immediate preceding school year as certified by the educational service district superintendent. [1980 c 154 § 10; 1977 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.]

Purpose—Effective date—Savings—Disposition of certain funds—Severability—1980 c 154: See notes following chapter 82.45 RCW digest.

Effective date—Severability—1977 ex.s. c 359: See notes following RCW 28A.58.750.

Basic Education Act of 1977: RCW 28A.58.750.

Distribution of funds to school districts, forest reserve funds: RCW 28A.41.130.

Chapter 36.34 COUNTY PROPERTY

| | |
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| Sections | |
| 36.34.350 | National forest townsite lands—Sale by direct negotiation. |

36.34.350 National forest townsite lands—Sale by direct negotiation. A county may sell lands by direct negotiation without going through public auction when the lands were, prior to acquisition by the county, a national forest townsite under the jurisdiction of the United States department of agriculture. [1980 c 90 § 1.]

Expiration date—1980 c 90: "Sections 1 and 2 of this act shall expire on January 1, 1984." [1980 c 90 § 3.] This applies to RCW 36.34.350 and 82.20.065.

Chapter 36.67

LIMITATION OF INDEBTEDNESS—COUNTY BONDS

| | |
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| Sections | |
| 36.67.040 | Content of bonds. |

36.67.040 Content of bonds. The bonds shall bear the date of issue, shall be made payable to the bearer and bear interest at a rate of not exceeding twelve percent per year, payable semiannually, with coupons attached for each interest payment. Except as otherwise provided in RCW 39.44.100, the bonds and each coupon shall be signed by the chairman of the board of county commissioners, or in counties having an elected executive, the elected executive officer, and shall be attested by the clerk of the board, and the seal of such board shall be affixed to each bond, but not to the coupon. Each bond shall be printed, engraved, or lithographed on good bond paper. [1980 c 145 § 1; 1969 c 142 § 5; 1967 c 107 § 3; 1963 c 4 § 36.67.040. Prior: 1890 p 38 § 4; RRS § 5578.]

Validation—1969 c 142: See RCW 39.36.900.

Chapter 36.68

PARKS AND RECREATIONAL FACILITIES

| | |
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| Sections | |
| 36.68.080 | Penalty for violations of regulations. (Effective until January 1, 1981.) |
| 36.68.080 | Penalty for violations of regulations. (Effective January 1, 1981.) |

36.68.080 Penalty for violations of regulations. (Effective until January 1, 1981.) Any person violating any rules or regulations adopted by the board of county commissioners relating to parks, playgrounds, or other recreational facilities shall be guilty of a misdemeanor. [1963 c 4 § 36.68.080. Prior: 1949 c 94 § 8; Rem. Supp. 1949 § 3991–21.]

36.68.080 Penalty for violations of regulations. (Effective January 1, 1981.) Any person violating any rules or regulations adopted by the board of county commissioners relating to parks, playgrounds, or other recreational facilities shall be guilty of a misdemeanor: *Provided*, That violation of a rule or regulation relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of a rule or regulation equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor. [1979 ex.s. c 136 § 36; 1963 c 4 § 36.68.080. Prior: 1949 c 94 § 8; Rem. Supp. 1949 § 3991–21.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Chapter 36.69
RECREATION DISTRICTS ACT

Sections

| | |
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| 36.69.180 | Violation of rules—Penalty. (Effective until January 1, 1981.) |
| 36.69.180 | Violation of rules—Penalty. (Effective January 1, 1981.) |

36.69.180 Violation of rules—Penalty. (Effective until January 1, 1981.) The violation of any of the rules or regulations of a park and recreation district adopted by its board for the preservation of order, control of traffic, protection of life or property or for the regulation of the use of park property shall constitute a misdemeanor. [1963 c 4 § 36.69.180. Prior: 1957 c 58 § 19.]

36.69.180 Violation of rules—Penalty. (Effective January 1, 1981.) The violation of any of the rules or regulations of a park and recreation district adopted by its board for the preservation of order, control of traffic, protection of life or property, or for the regulation of the use of park property shall constitute a misdemeanor: *Provided*, That violation of a rule or regulation relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of a rule or regulation equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor. [1979 ex.s. c 136 § 37; 1963 c 4 § 36.69.180. Prior: 1957 c 58 § 19.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Chapter 36.75

ROADS AND BRIDGES—GENERAL PROVISIONS

Sections

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| 36.75.300 | Primitive roads—Classification and designation. |
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36.75.300 Primitive roads—Classification and designation. The legislative authority of each county may by resolution classify and designate portions of the county roads as primitive roads where the designated road portion:

- (1) Is not classified as part of the county primary road system, as provided for in RCW 36.86.070;
- (2) Has a gravel or earth driving surface; and
- (3) Has an average annual daily traffic of one hundred or fewer vehicles.

Any road designated as a primitive road shall be marked with signs indicating that it is a primitive road, as provided in the manual of uniform traffic control devices, at all places where the primitive road portion begins or connects with a highway other than another primitive road. No design or signing standards, other than the requirement that warning signs be placed as provided in this section, shall be applicable to primitive roads.

The design of a primitive road, and the location, placing, or failing to place road signs, other than the requirement that warning signs be placed as provided in

this section, shall not be considered in any action for damages brought against a county, or against a county employee or county employees, or both, arising from vehicular traffic on the primitive road. [1980 c 45 § 1.]

Chapter 36.77

ROADS AND BRIDGES—CONSTRUCTION

Sections

| | |
|-----------|---|
| 36.77.050 | Repealed. |
| 36.77.060 | Repealed. (Effective January 1, 1981.) |
| 36.77.065 | Day labor construction projects or programs— "County road construction budget" defined— Amounts—Violations. (Effective January 1, 1981.) |

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

36.77.060 Repealed. (Effective January 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

36.77.065 Day labor construction projects or programs—"County road construction budget" defined—Amounts—Violations. (Effective January 1, 1981.) The board may cause any county road to be constructed or improved by day labor as provided in this section.

(1) As used in this section, "county road construction budget" means the aggregate total of those costs as defined by the budgeting, accounting, and reporting system for counties and cities and other local governments authorized under RCW 43.09.200 and 43.09.230 as prescribed in the state auditor's budget, accounting, and reporting manual's (BARS) road and street construction accounts 541.00 through 541.90 in effect April 1, 1975: *Provided*, That such costs shall not include those costs assigned to the preliminary engineering account 541.11, right of way accounts 541.20 through 541.25, ancillary operations account 541.80, and ferries account 541.81 in the budget, accounting, and reporting manual.

(2) The total amount of day labor construction programs one county may perform annually shall total no more than the amounts determined in the following manner:

(a) Any county with a total annual county road construction budget of four million dollars or more may accumulate a day labor road construction budget equal to no more than eight hundred thousand dollars or fifteen percent of the county's total annual county road construction budget, whichever is greater.

(b) Any county with a total annual county road construction budget over one million five hundred thousand dollars and less than four million dollars may accumulate a day labor road construction budget equal to not more than five hundred twenty-five thousand dollars or twenty percent of the county's total annual county road construction budget, whichever is greater.

(c) Any county with a total annual county road construction budget over five hundred thousand dollars and less than one million five hundred thousand dollars may

accumulate a day labor road construction budget equal to two hundred fifty thousand dollars or thirty-five percent of the county's total annual county road construction budget, whichever is greater.

(d) Any county with a total annual county road construction budget less than five hundred thousand dollars may accumulate a day labor road construction budget equal to two hundred fifty thousand dollars: *Provided*, That any county with a total annual road construction budget of less than five hundred thousand dollars may, by resolution of the board at the time the county road construction budget is adopted, elect to construct or improve county roads by day labor in an amount not to exceed thirty-five thousand dollars on any one project, including labor, equipment, and materials; such election to be in lieu of the two hundred fifty thousand dollar limit provided for in this section, except that any project means a complete project and the division of any project into units of work or classes of work so as to permit construction by day labor is not authorized.

Any county that adopts a county road construction budget unreasonably exceeding that county's actual road construction expenditures for the same budget year which has the effect of permitting the county to exceed the day labor amounts established in this section is in violation of the county road administration board's standards of good practice under RCW 36.78.020 and is in violation of this section. Any county, whose expenditure for day labor for road construction projects unreasonably exceeds the limits specified in this section, is in violation of the county road administration board's standards of good practice under RCW 36.78.020 and is in violation of this section.

(3) Notwithstanding any other provision in this section, whenever the construction work or improvement 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 including labor, equipment, and materials, such work shall be performed by contract as in this chapter provided. This section means a complete project and does not permit the construction of any project by day labor by division of the project into units of work or classes of work. [1980 c 40 § 1.]

Effective date—1980 c 40: "This act shall take effect on January 1, 1981." [1980 c 40 § 3.] This applies to RCW 36.77.065 and to the repeal of RCW 36.77.060.

Chapter 36.80

ROADS AND BRIDGES—ENGINEER

Sections

36.80.010 Employment of road engineer.

36.80.010 Employment of road engineer. The board shall employ a full time county road engineer residing in the county: *Provided*, That in eighth and ninth class counties it may employ a county engineer on a part-time basis who need not be a resident of such county, or may

contract with other counties for the engineering services of a county road engineer from such other counties: *Provided further*, That any eighth or ninth class county which is reclassified in class because of an increase in population shall retain the right to employ their existing part-time county engineer or contract with other counties for engineering services. [1980 c 93 § 1; 1969 ex.s. c 182 § 6; 1963 c 4 § 36.80.010. Prior: 1943 c 73 § 1, part; 1937 c 187 § 4, part; Rem. Supp. 1943 § 6450-4, part.]

Chapter 36.88

COUNTY ROAD IMPROVEMENT DISTRICTS

Sections

36.88.200 Improvement bonds—Form, contents, execution.
36.88.330 Warrants—Issuance—Priority—Acceptance.

36.88.200 Improvement bonds—Form, contents, execution. Such bonds shall be numbered from one upwards consecutively, shall be in such denominations as may be provided by the county legislative authority in the resolution authorizing their issuance, shall mature on or before a date not to exceed twenty-two years from and after their date, shall bear interest at such rate or rates as authorized by the legislative authority payable annually or semiannually as may be provided by the legislative authority, shall be signed by the chairman of the legislative authority and attested by the county auditor, shall have the seal of the county affixed thereto, shall be payable at the office of the county treasurer or elsewhere as may be designated by the legislative authority, and shall have attached thereto interest coupons for each interest payment which said coupons shall be signed by the chairman of the legislative authority and attested by the auditor. In lieu of any signatures required in this section, the bonds and coupons may bear the printed or engraved facsimile signatures of said officials.

Such bonds shall refer to the improvement for which they are issued and to the resolution creating the road improvement district therefor. [1980 c 100 § 5; 1970 ex.s. c 56 § 55; 1969 ex.s. c 232 § 73; 1963 c 4 § 36.88-.200. Prior: 1951 c 192 § 20.]

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.

36.88.330 Warrants—Issuance—Priority—Acceptance. The board may provide by resolution for the issuance of warrants in payment of the costs and expenses of any project, payable out of the county road improvement fund. The warrants shall be redeemed either in cash or by bonds for the same project authorized by the resolution.

All warrants issued against any such improvement fund shall be claims and liens against said fund prior and superior to any right, lien or claim of any surety upon the bond given to the county by or for the contract to secure the performance of his contract or to secure

the payment of persons who have performed work thereon, furnished materials therefor, or furnished provisions and supplies for the carrying on of the work.

The county treasurer may accept warrants against any county road improvement fund upon such conditions as the board may prescribe in payment of: (1) Assessments levied to supply that fund in due order of priority; (2) judgments rendered against property owners who have become delinquent in the payment of assessments to that fund; and (3) certificates of purchase in cases where property of delinquents has been sold under execution or at tax sale for failure to pay assessments levied to supply that fund. [1980 c 100 § 6; 1963 c 4 § 36.88.330. Prior: 1951 c 192 § 33.]

Chapter 36.94

SEWERAGE, WATER AND DRAINAGE SYSTEMS

Sections

36.94.370 Waiver or delay of collection of tap-in charges, connection or hookup fees for low income persons.

36.94.370 Waiver or delay of collection of tap-in charges, connection or hookup fees for low income persons. Whenever a county waives or delays collection of tap-in charges, connection fees or hookup fees for low income persons, or class of low income persons, to connect to a system of sewerage or a system of water, the waiver or delay shall be pursuant to a program established by ordinance. [1980 c 150 § 2.]

Chapter 36.95

TELEVISION RECEPTION IMPROVEMENT DISTRICTS

Sections

36.95.130 District board—Powers generally.

36.95.130 District board—Powers generally. In addition to other powers provided for under this chapter, the board shall have the following powers:

(1) To perform all acts necessary to assure that the purposes of this chapter will be carried out fairly and efficiently;

(2) To acquire, build, construct, repair, own, maintain, and operate any necessary stations retransmitting simultaneous visual and aural signals intended to be received by the general public, relay stations, pick-up stations, or any other electrical or electronic system necessary: *Provided*, That the board shall have no power to originate programs;

(3) To make contracts to compensate any owner of land or other property for the use of such property for the purposes of this chapter;

(4) To make contracts with the United States, or any state, municipality, or any department or agency of those entities for carrying out the general purposes for which the district is formed;

(5) To acquire by gift, devise, bequest, lease, or purchase real and personal property, tangible or intangible,

including lands, rights of way, and easements, necessary or convenient for its purposes;

(6) To make contracts of any lawful nature (including labor contracts or those for employees' benefits), employ engineers, laboratory personnel, attorneys, other technical or professional assistants, and any other assistants or employees necessary to carry out the provisions of this chapter;

(7) To contract indebtedness or borrow money; to issue warrants or bonds to be paid from district revenues;

(8) To prescribe tax rates for the providing of services throughout the area in accordance with the provisions of this chapter; and

(9) To apply for, accept, and be the holder of any permit or license issued by or required under federal or state law. [1980 c 100 § 2; 1971 ex.s. c 155 § 13.]

Title 40

PUBLIC DOCUMENTS, RECORDS AND PUBLICATIONS

Chapters

40.04 Public documents.

Chapter 40.04

PUBLIC DOCUMENTS

Sections

40.04.090 Legislative journals—Distribution, sale, exchange—Duties of law librarian—Surplus sets, sale, price.

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 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 regular session during an odd- or even-numbered

year, 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 regular sessions during an odd- or even-numbered year, 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. [1980 c 87 § 13; 1977 ex.s. c 169 § 95; 1973 c 33 § 2; 1941 c 150 § 5; Rem. Supp. 1941 § 8217-5.]

~~Severability—Nomenclature—Savings—1977 ex.s. c 169:~~ See notes following RCW 28B.10.016.

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.
- 41.14 Civil service for sheriff's office.
- 41.16 Firemen's relief and pensions—1947 Act.
- 41.26 Law enforcement officers' and fire fighters' retirement system.
- 41.32 Teachers' retirement.
- 41.36 Retirement and disability payments in first class school districts.
- 41.40 Washington public employees' retirement system.
- 41.52 Public pension commission.
- 41.56 Public employees' collective bargaining.

Chapter 41.04

GENERAL PROVISIONS

Sections

- 41.04.060 Repealed.
- 41.04.070 Repealed.
- 41.04.080 Repealed.
- 41.04.090 Repealed.
- 41.04.100 Repealed.
- 41.04.230 Payroll deductions authorized.
- 41.04.270 Public retirement systems—Members or beneficiaries estopped from becoming a member or accruing rights in any other public retirement system.
- 41.04.340 State employee attendance incentive program—Remuneration for unused sick leave.

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

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

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

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

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

41.04.230 Payroll deductions authorized. Any official of the state authorized to disburse funds in payment of salaries and wages of public officers or employees is authorized, upon written request of the officer or employee, to deduct each month from the salaries or wages of the officers or employees, the amount or amounts of subscription payments, premiums, contributions, or continuation thereof, for payment of the following:

(1) Credit union deductions: *Provided*, That the credit union is organized solely for public employees: *And provided further*, That twenty-five or more employees of a single state agency or a total of one hundred or more state employees of several agencies have authorized such a deduction for payment to the same credit union.

(2) Parking fee deductions: *Provided*, That payment is made for parking facilities furnished by the agency or by the department of general administration.

(3) U.S. savings bond deductions: *Provided*, That a person within the particular agency shall be appointed to act as trustee. The trustee will receive all contributions; purchase and deliver all bond certificates; and keep such records and furnish such bond or security as will render full accountability for all bond contributions.

(4) Board, lodging or uniform deductions when such board, lodging and uniforms are furnished by the state, or deductions for academic tuitions or fees or scholarship contributions payable to the employing institution.

(5) Dues and other fees deductions: *Provided*, That the deduction is for payment of membership dues to any professional organization formed primarily for public employees or college and university professors: *And provided, further*, That twenty-five or more employees of a single state agency, or a total of one hundred or more state employees of several agencies have authorized such a deduction for payment to the same professional organization.

(6) Labor or employee organization dues may be deducted in the event that a payroll deduction is not provided under a collective bargaining agreement under the provisions of RCW 41.06.150: *Provided*, That twenty-five or more officers or employees of a single agency, or a total of one hundred or more officers or employees of several agencies have authorized such a deduction for payment to the same labor or employee organization: *Provided, further*, That labor or employee organizations with five hundred or more members in state government

may have payroll deduction for employee benefit programs.

(7) Insurance contributions to the trustee of contracts for payment of premiums under contracts authorized by the state employees' insurance board.

Deductions from salaries and wages of public officers and employees other than those enumerated in this section or by other law, may be authorized by the director of financial management for purposes clearly related to state employment or goals and objectives of the agency and for plans authorized by the state employees' insurance board.

The authority to make deductions from the salaries and wages of public officers and employees as provided for in this section shall be in addition to such other authority as may be provided by law: *Provided*, That the state or any department, division, or separate agency of the state shall not be liable to any insurance carrier or contractor for the failure to make or transmit any such deduction. [1980 c 120 § 1; 1979 c 151 § 54; 1973 1st ex.s. c 147 § 5; 1970 ex.s. c 39 § 11; 1969 c 59 § 5.]

~~Effective date—Effect of veto—Savings—Severability—~~
1973 1st ex.s. c 147: See notes following RCW 41.05.010.

~~Severability—1970 ex.s. c 39: See note following RCW 41.05.010.~~

41.04.270 Public retirement systems—Members or beneficiaries estopped from becoming a member or accruing rights in any other public retirement system. Notwithstanding any other provision of law to the contrary, on and after March 19, 1976, any member or former member who

(1) receives a retirement allowance earned by said former member as deferred compensation from any public retirement system authorized by the general laws of this state, or

(2) is eligible to receive a retirement allowance from any public retirement system listed in RCW 41.50.030, but chooses not to apply, or

(3) is the beneficiary of a disability allowance from any public retirement system listed in RCW 41.50.030 shall be estopped from becoming a member of or accruing any contractual rights whatsoever in any other public retirement system listed in RCW 41.50.030: *Provided*, That subsections (1) and (2) of this section shall not apply to persons who have accumulated less than fifteen years service credit in any such system.

Nothing in this section is intended to apply to any retirement system except those listed in RCW 41.50.030 and the retirement systems of first class cities. [1980 c 29 § 1; 1975-'76 2nd ex.s. c 105 § 1.]

~~Severability—1975-'76 2nd ex.s. c 105: "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 105 § 28.]~~

41.04.340 State employee attendance incentive program—Remuneration for unused sick leave. As used in this section the term "eligible employee" means any employee of the state, other than teaching and research faculty at the state and regional universities and The Evergreen State College, entitled to accumulate sick

leave and for whom accurate sick leave records have been maintained: *Provided*, That no employee may receive compensation under this section for any portion of sick leave accumulated at a rate in excess of one day per month.

An attendance incentive program is established for all eligible employees. In January of the year following any year in which a minimum of sixty days of sick leave is accrued, and each January thereafter, any eligible employee may receive remuneration for unused sick leave accumulated in the previous year at a rate equal to one day's monetary compensation of the employee for each four full days of accrued sick leave in excess of sixty days. Sick leave for which compensation has been received shall be deducted from accrued sick leave at the rate of four days for every one day's monetary compensation.

At the time of separation from state service due to retirement or death, an eligible employee or the employee's estate shall receive remuneration at a rate equal to one day's current monetary compensation of the employee for each four full days of accrued sick leave: *Provided*, That community college districts may delay until July 1, 1981, payment due any eligible employee or employee's estate: *Provided further*, That there shall be added to any such delayed payment interest at the rate of eight percent per year.

Moneys received under this section shall not be included for the purpose of computing a retirement allowance under any public retirement system in this state.

This section shall be administered, and rules shall be promulgated to carry out its purposes, by the state personnel board and the higher education personnel board for persons subject to chapters 41.06 and 28B.16 RCW, respectively, and by their respective personnel authorities for other eligible employees: *Provided*, That determination of classes of eligible employees shall be subject to approval by the office of financial management.

Should the legislature revoke any benefits granted under this section, no affected employee shall be entitled thereafter to receive such benefits as a matter of contractual right. [1980 c 182 § 1; 1979 ex.s. c 150 § 1.]

~~Severability—1980 c 182: "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." [1980 c 182 § 7.]~~

Chapter 41.05

STATE EMPLOYEES' INSURANCE AND HEALTH CARE

Sections

41.05.025 State employees' insurance board—Created—Membership—Meetings—Travel expenses—Powers and duties.

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 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 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. 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. The board may but shall not be required to pay more for health benefits under a panel medicine plan than it would otherwise be required to pay for health benefits by a contract with a regularly constituted insurance carrier or health care service contractor in effect at the time the panel medicine plan is included in the employee health care benefit plan. 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 or subscription cost to the individual employees and officials, unless the board approves a panel medicine plan at a subscription rate in excess of the premium of the regularly constituted insurance carrier or health care service contractor, in which circumstances an employee contribution may be authorized at an amount equal to such excess. 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.

(4) The board shall review plans proposed by insurance carriers who desire to offer property insurance and/or accident and casualty insurance to state employees through payroll deduction. The board may approve any such plan for payroll deduction by carriers holding a valid certificate of authority in the state of Washington and which the board determines to be in the best interests of employees and the state. The board shall promulgate rules setting forth criteria by which it shall evaluate the plans. [1980 c 120 § 2; 1979 c 125 § 1; 1977 ex.s. c 136 § 2.]

*Reviser's note: RCW 41.05.020 was repealed by section 7, chapter 136, Laws of 1977 ex.s. and by section 4, chapter 125, Laws of 1979.

Effective date—Conditions prerequisite to implementing sections—1977 ex.s. c 136: See note following RCW 41.05.005.

Chapter 41.06
STATE CIVIL SERVICE LAW

Sections

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| 41.06.010 | Declaration of purpose. |
| 41.06.020 | Definitions. |
| 41.06.070 | Exemptions. |
| 41.06.076 | Department of social and health services—Certain personnel exempted from chapter. |
| 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 financial management—Data required. |
| 41.06.167 | Salary and fringe benefit surveys required for officers of the Washington state patrol—Comprehensive salary and fringe benefits survey plan required. |
| 41.06.400 | Training and career development programs—Powers and duties of director. |
| 41.06.410 | Training and career development programs—Agency plan—Report—Budget. |
| 41.06.420 | Entry-level management training course—Requirements—Suspension—Waiver—Designation of supervisory or management positions. |
| 41.06.430 | Career executive program—Development—Policies and standards—Duties of board and director. |
| 41.06.440 | Career executive program—Termination—Evaluation of effectiveness—Performance audit—Report. |

41.06.010 Declaration of purpose. The general purpose of this chapter is to establish for the state a system of personnel administration based on merit principles and scientific methods governing the appointment, promotion, transfer, layoff, recruitment, retention, classification and pay plan, removal, discipline, training and career development, and welfare of its civil employees, and other incidents of state employment. All appointments and promotions to positions, and retention therein, in the state service, shall be made on the basis of policies hereinafter specified. [1980 c 118 § 1; 1961 c 1 § 1.]

Severability—1980 c 118: "If any provision of this 1980 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1980 c 118 § 10.]

41.06.020 Definitions. Unless the context clearly indicates otherwise, the words used in this chapter have the meaning given in this section.

(1) "Agency" means an office, department, board, commission, or other separate unit or division, however designated, of the state government and all personnel thereof; it includes any unit of state government established by law, the executive officer or members of which are either elected or appointed, upon which the statutes confer powers and impose duties in connection with operations of either a governmental or proprietary nature.

(2) "Board" means the state personnel board established under the provisions of RCW 41.06.110, except that this definition does not apply to the words "board" or "boards" when used in RCW 41.06.070.

(3) "Classified service" means all positions in the state service subject to the provisions of this chapter.

(4) "Competitive service" means all positions in the classified service for which a competitive examination is required as a condition precedent to appointment.

(5) "Noncompetitive service" means all positions in the classified service for which a competitive examination is not required.

(6) "Department" means an agency of government that has as its governing officer a person, or combination of persons such as a commission, board, or council, by law empowered to operate the agency responsible either to (1) no other public officer or (2) the governor.

(7) "Career development" means the progressive development of employee capabilities to facilitate productivity, job satisfaction, and upward mobility through work assignments as well as education and training that are both state-sponsored and are achieved by individual employee efforts, all of which shall be consistent with the needs and obligations of the state and its agencies.

(8) "Training" means activities designed to develop job-related knowledge and skills of employees.

(9) "Director" means the director of personnel appointed under the provisions of RCW 41.06.130. [1980 c 118 § 2; 1970 ex.s. c 12 § 1. Prior: 1969 ex.s. c 36 § 21; 1969 c 45 § 6; 1967 ex.s. c 8 § 48; 1961 c 1 § 2.]

Severability—1980 c 118: See note following RCW 41.06.010.

41.06.070 Exemptions. The provisions of this chapter do not apply to:

(1) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, legislative budget committee, statute law committee, and any interim committee of the legislature;

(2) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(3) Officers, academic personnel, and employees of state institutions of higher education, the state board for community college education, and the higher education personnel board;

(4) The officers of the Washington state patrol;

(5) Elective officers of the state;

(6) The chief executive officer of each agency;

(7) In the departments of employment security, fisheries, social and health services, the director and his confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his confidential secretary, and his statutory assistant directors;

(8) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(a) All members of such boards, commissions, or committees;

(b) If the members of the board, commission, or committee serve on a part time basis and there is a statutory executive officer: (i) The secretary of the board, commission, or committee; (ii) the chief executive officer of

the board, commission, or committee; and (iii) the confidential secretary of the chief executive officer of the board, commission, or committee;

(c) If the members of the board, commission, or committee serve on a full time basis: (i) The chief executive officer or administrative officer as designated by the board, commission, or committee; and (ii) a confidential secretary to the chairman of the board, commission, or committee;

(d) If all members of the board, commission, or committee serve ex officio: (i) The chief executive officer; and (ii) the confidential secretary of such chief executive officer;

(9) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(10) Assistant attorneys general;

(11) Commissioned and enlisted personnel in the military service of the state;

(12) Inmate, student, part time, or temporary employees, and part time professional consultants, as defined by the state personnel board or the board having jurisdiction;

(13) The public printer or to any employees of or positions in the state printing plant;

(14) Officers and employees of the Washington state fruit commission;

(15) Officers and employees of the Washington state apple advertising commission;

(16) Officers and employees of the Washington state dairy products commission;

(17) Officers and employees of any commission formed under the provisions of chapter 191, Laws of 1955, and chapter 15.66 RCW;

(18) Officers and employees of the state wheat commission formed under the provisions of chapter 87, Laws of 1961 (chapter 15.63 RCW);

(19) Officers and employees of agricultural commissions formed under the provisions of chapter 256, Laws of 1961 (chapter 15.65 RCW);

(20) Liquor vendors appointed by the Washington state liquor control board pursuant to RCW 66.08.050: *Provided, however,* That rules and regulations adopted by the state personnel board pursuant to RCW 41.06.150 regarding the basis for, and procedures to be followed for, the dismissal, suspension, or demotion of an employee, and appeals therefrom shall be fully applicable to liquor vendors except those part time agency vendors employed by the liquor control board when, in addition to the sale of liquor for the state, they sell goods, wares, merchandise, or services as a self-sustaining private retail business;

(21) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

(22) In addition to the exemptions specifically provided by this chapter, the state personnel board may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the personnel board stating the reasons for requesting such exemptions. The personnel board shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the board determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the personnel board shall grant the request and such determination shall be final. The total number of additional exemptions permitted under this subsection shall not exceed one hundred seventy-five for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor. The state personnel board shall report to each regular session of the legislature during an odd-numbered year all exemptions granted pursuant to the provisions of this subsection, together with the reasons for such exemptions.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (10) through (19) of this section, shall be determined by the state personnel board.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights:

If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary. [1980 c 87 § 14; 1973 1st ex.s. c 133 § 1; 1972 ex.s. c 11 § 1. Prior: 1971 ex.s. c 209 § 1; 1971 ex.s. c 59 § 1; 1971 c 81 § 100; 1969 ex.s. c 36 § 23; 1967 ex.s. c 8 § 47; 1961 c 179 § 1; 1961 c 1 § 7.]

Effective date—Severability—1969 ex.s. c 36: See RCW 28B.16.920 and 28B.16.930.

Severability—1967 ex.s. c 8: See RCW 28B.50.910.

41.06.076 Department of social and health services—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 social and health services to the secretary; the secretary's executive assistant, if any; not to exceed six assistant secretaries, thirteen division directors, six regional directors; one confidential secretary for each of the above-named officers; not to exceed six bureau chiefs; and all superintendents of institutions of which

the average daily population equals or exceeds one hundred residents: *Provided*, That each such confidential secretary must meet the minimum qualifications for the class of secretary II as determined by the state personnel board. [1980 c 73 § 1; 1970 ex.s. c 18 § 8.]

~~Effective date~~—~~Severability~~—1970 ex.s. c 18: See notes following RCW 43.20A.010.

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) Training and career development;

(6) Probationary periods of six months and rejections therein;

(7) Transfers;

(8) Sick leaves and vacations;

(9) Hours of work;

(10) Layoffs when necessary and subsequent reemployment, both according to seniority;

(11) 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;

(12) 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;

(13) 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;

(14) 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;

(15) 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;

(16) Allocation and reallocation of positions within the classification plan;

(17) 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 financial management in accordance with the provisions of chapter 43.88 RCW;

(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. [1980 c 118 § 3; 1979 c 151 § 57; 1977 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.]

Severability—1980 c 118: See note following RCW 41.06.010.

Severability—1977 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 ex.s. c 152 § 14.] This 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 financial 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 such surveys to be conducted at least in the year prior to the convening of each one hundred five day 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 financial 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.

Salary and fringe benefit survey information collected from private employers which identifies a specific employer with the salary and fringe benefit rates which that employer pays to its employees shall not be subject to public disclosure under chapter 42.17 RCW. [1980 c 11 § 1; 1979 c 151 § 58; 1977 ex.s. c 152 § 2; 1961 c 1 § 16.]

Severability—1977 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 such surveys to be conducted at least in the year prior to the convening of each one hundred five day 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 financial 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 financial 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 financial 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. [1980 c 11 § 2; 1979 c 151 § 60; 1977 ex.s. c 152 § 5.]

Severability—1977 ex.s. c 152: See note following RCW 41.06.150.

41.06.400 Training and career development programs—Powers and duties of director. (1) In addition to other powers and duties specified in this chapter, the board shall, by rule, prescribe the purpose and minimum standards for training and career development programs and, in so doing, regularly consult with and consider the needs of individual agencies and employees.

(2) In addition to other powers and duties specified in this chapter, the director shall:

(a) Provide for the evaluation of training and career development programs and plans of agencies based on minimum standards established by the board. The director shall report the results of such evaluations to the agency which is the subject of the evaluation;

(b) Provide training and career development programs which may be conducted more efficiently and economically on an interagency basis;

(c) Promote interagency sharing of resources for training and career development;

(d) Monitor and review the impact of training and career development programs to ensure that the responsibilities of the state to provide equal employment opportunities are diligently carried out. The director shall report to the board the impact of training and career development programs on the fulfillment of such responsibilities.

(3) At an agency's request, the director may provide training and career development programs for an agency's internal use which may be conducted more efficiently and economically by the department of personnel. [1980 c 118 § 4.]

Severability—1980 c 118: See note following RCW 41.06.010.

41.06.410 Training and career development programs—Agency plan—Report—Budget. Each agency subject to the provisions of this chapter shall:

(1) Prepare an employee training and career development plan which shall at least meet minimum standards established by the board. A copy of such plan shall be submitted to the director for purposes of administering the provisions of RCW 41.06.400(2);

(2) Provide for training and career development for its employees in accordance with the agency plan;

(3) Report on its training and career development program operations and costs to the director in accordance with reporting procedures adopted by the board;

(4) Budget for training and career development in accordance with procedures of the office of financial management. [1980 c 118 § 5.]

Severability—1980 c 118: See note following RCW 41.06.010.

41.06.420 Entry-level management training course—Requirements—Suspension—

Waiver—Designation of supervisory or management positions. (1) The board, by rule, shall prescribe the conditions under which an employee appointed to a supervisory or management position after June 12, 1980, shall be required to successfully complete an entry-level management training course as approved by the director. Such training shall not be required of any employee who has completed a management training course prior to the employee's appointment which is, in the judgment of the director, at least equivalent to the entry-level course required by this section.

(2) The board, by rule, shall establish procedures for the suspension of the entry-level training requirement in cases where the ability of an agency to perform its responsibilities is adversely affected, or for the waiver of this requirement in cases where a person has demonstrated experience as a substitute for training.

(3) Agencies subject to the provisions of this chapter, in accordance with rules prescribed by the board, shall designate individual positions, or groups of positions, as being "supervisory" or "management" positions. Such

designations shall be subject to review by the director as part of the director's evaluation of training and career development programs prescribed by RCW 41.06.400(2). [1980 c 118 § 6.]

Severability—1980 c 118: See note following RCW 41.06.010.

41.06.430 Career executive program—Development—Policies and standards—Duties of board and director. (1) The board, by rule, shall develop a career executive program which recognizes the profession of management and recognizes excellence in managerial skills in order to (a) identify, attract, and retain highly qualified executive candidates, (b) provide outstanding employees a broad opportunity for career development, and (c) provide for the mobility of such employees among agencies, it being to the advantage of the state to make the most beneficial use of individual managerial skills.

(2) To accomplish the purposes of subsection (1) of this section, the board, notwithstanding any other provision of this chapter, may provide policies and standards for recruitment, appointment, examination, training, probation, employment register control, certification, classification, salary administration, transfer, promotion, reemployment, conditions of employment, and separation separate from procedures established for other employment.

(3) The director, in consultation with affected agencies, shall recommend to the board the classified positions which may be filled by participants in the career executive program. Upon the request of an agency, management positions that are exempt from the state civil service law pursuant to RCW 41.06.070 may be included in all or any part of the career executive program: *Provided*, That an agency may at any time, after providing written notice to the board, withdraw an exempt position from the career executive program. No employee may be placed in the career executive program without the employee's consent.

(4) The number of employees participating in the career executive program shall not exceed one percent of the employees subject to the provisions of this chapter.

(5) The director shall monitor and review the impact of the career executive program to ensure that the responsibilities of the state to provide equal employment opportunities are diligently carried out. The director shall report to the board the impact of the career executive program on the fulfillment of such responsibilities.

(6) Any classified state employee, upon entering a position in the career executive program, shall be entitled subsequently to revert to any class or position previously held with permanent status, or, if such position is not available, revert to a position similar in nature and salary to the position previously held. [1980 c 118 § 7.]

Severability—1980 c 118: See note following RCW 41.06.010.

41.06.440 Career executive program—Termination—Evaluation of effectiveness—Performance audit—Report. (1) The career executive program established by RCW 41.06.430 shall terminate on June

30, 1985, unless extended by law for an additional fixed period of time.

(2) Prior to this termination date, the appropriate standing committee in each house of the legislature shall hold a public hearing to receive testimony on the effectiveness of the program from employee participants in the career executive program, agency directors, the director of the department of personnel, and other interested parties.

(3) The legislative budget committee shall cause to be conducted a performance audit of the career executive program. Such audit shall be completed at least six months prior to the termination date for the program. Upon completion of the performance audit, the legislative budget committee shall submit a complete report of its findings to the president of the senate and the speaker of the house for use by the appropriate standing committees designated to review the career executive program. [1980 c 118 § 8.]

Severability—1980 c 118: See note following RCW 41.06.010.

Chapter 41.14

CIVIL SERVICE FOR SHERIFF'S OFFICE

Sections

41.14.080 Classified service—Appointment, promotion, transfer, suspension, discharge.

41.14.080 Classified service—Appointment, promotion, transfer, suspension, discharge. All appointments to and promotions to positions in the classified civil service of the office of county sheriff shall be made solely on merit, efficiency, and fitness, which shall be ascertained by open competitive examination and impartial investigation: *Provided*, That before June 30, 1981, employees in an existing county personnel system may be transferred to newly created and classified positions within such county's sheriff's office, in order to permanently transfer the functions of these positions, without meeting the open competitive examination requirements of this section if the transfer is approved by the civil service commission created in RCW 41.14.030. No person in the classified civil service shall be reinstated in or transferred, suspended, or discharged from any such place, position, or employment contrary to the provisions of this chapter. [1980 c 108 § 1; 1959 c 1 § 8 (Initiative Measure No. 23 § 8).]

Chapter 41.16

FIREMEN'S RELIEF AND PENSIONS—1947 ACT

Sections

41.16.060 Tax levy for fund.

41.16.060 Tax levy for fund. It shall be the duty of the legislative authority of each municipality, each year as a part of its annual tax levy, to levy and place in the fund a tax of twenty-two and one-half cents per thousand dollars of assessed value against all the taxable property of such municipality: *Provided*, That if a report

by a qualified actuary on the condition of the fund establishes that the whole or any part of said dollar rate is not necessary to maintain the actuarial soundness of the fund, the levy of said twenty-two and one-half cents per thousand dollars of assessed value may be omitted, or the whole or any part of said dollar rate may be levied and used for any other municipal purpose.

It shall be the duty of the legislative authority of each municipality, each year as a part of its annual tax levy and in addition to the city levy limit set forth in RCW 84.52.050, as now or hereafter amended, to levy and place in the fund an additional tax of twenty-two and one-half cents per thousand dollars of assessed value against all taxable property of such municipality: *Provided*, That if a report by a qualified actuary establishes that all or any part of the additional twenty-two and one-half cents per thousand dollars of assessed value levy is unnecessary to meet the estimated demands on the fund under this chapter for the ensuing budget year, the levy of said additional twenty-two and one-half cents per thousand dollars of assessed value may be omitted, or the whole or any part of such dollar rate may be levied and used for any other municipal purpose.

The amount of a levy under this section allocated to the pension fund may be reduced in the same proportion as the regular property tax levy of the municipality is reduced by chapter 84.55 RCW. [1980 c 155 § 4; 1973 1st ex.s. c 195 § 43; 1973 1st ex.s. c 195 § 144; 1970 ex.s. c 92 § 2; 1965 ex.s. c 45 § 1; 1961 c 255 § 9; 1951 c 72 § 1; 1947 c 91 § 6; Rem. Supp. 1947 § 9578-45. Prior: 1929 c 86 § 12; 1919 c 196 § 15; 1909 c 50 § 14.]

Intent—Effective date—Applicability—1980 c 155: See notes following RCW 84.40.030.

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Intent—Effective date—Application—1970 ex.s. c 92: See notes following RCW 84.52.010.

Chapter 41.26

LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' RETIREMENT SYSTEM

Sections

41.26.560 Election to become member of system under RCW 41.26.420-41.26.550—Persons eligible—Rights, benefits and duties—Procedure, etc.

41.26.560 Election to become member of system under RCW 41.26.420-41.26.550—Persons eligible—Rights, benefits and duties—Procedure, etc. (1) Notwithstanding any provision of law to the contrary, any law enforcement officer or fire fighter who is not an active member of the retirement system under RCW 41.26.420 through 41.26.550 may become a member under RCW 41.26.420 through 41.26.550 by irrevocable election. For those persons employed as a law enforcement officer or fire fighter on June 12, 1980, the election shall be made on or before December 31, 1981. In the case of an individual not employed as a law enforcement officer or fire fighter on June 12, 1980, the election shall be made within one year from the date of reemployment in

that capacity or by December 31, 1981, whichever is later. At the time the election is made, the individual must be employed by an employer, as defined in RCW 41.26.030(2)(b).

(2) If the election is made under subsection (1) of this section, the member shall not acquire any further rights or benefits in any other nonfederal public retirement system in this state during any period of employment as a law enforcement officer or fire fighter.

(3) An individual who is or has been a member of the retirement system, except an individual who is or has been a member under RCW 41.26.420 through 41.26.550, may not elect to become a member under this section unless the individual has been denied membership or acquisition of service credit due solely to failure to successfully meet the minimum medical and health standards provided by RCW 41.26.045 when required to do so.

(4) An individual who elects membership under this section irrevocably waives any rights or benefits acquired by employment as a law enforcement officer or fire fighter in this or any other nonfederal public retirement system of this state except the right to any refund provided by such system and for the conversion of such rights as provided in this section.

(5) Any law enforcement officer or fire fighter, upon electing to be covered under RCW 41.26.420 through 41.26.550, shall have transferred all existing, previous service credited in a prior public retirement system in this state for periods of employment as a law enforcement officer or fire fighter, including all additional service granted indirectly to the employee for those periods of employment, such as authorized military service credit. Transfer of credit under this subsection shall be contingent on completion of the transfer of funds specified in subsection (7) of this section.

(6) Any law enforcement officer or fire fighter who received a refund of contributions covering the person's period of employment as a law enforcement officer or fire fighter may restore the contributions in the prior public retirement system in this state, for the purpose of transferring the service so recovered under subsection (5) of this section, if the employee would be allowed this right upon returning to membership under the prior retirement system. At the time of electing to be covered under RCW 41.26.420 through 41.26.550, the person shall make an irrevocable election whether to recover the service for the purpose of transfer. The recovery and transfer procedure must be completed within five years of the date of election or prior to retirement, whichever occurs first.

(7) Within sixty days of notification of a law enforcement officer's or fire fighter's service transfer under subsections (5) and (6) of this section, a prior retirement system shall transfer:

(a) The employee's accumulated contributions attributable to periods of employment as a law enforcement officer or fire fighter, including accumulated interest; and

(b) An additional amount equal to the amount under (a) of this subsection. This amount shall represent the

employer's contribution and shall not be credited to the employee's account.

(8) Any law enforcement officer or fire fighter who was previously excluded from membership or acquisition of service credit in this retirement system due solely to failure to successfully meet the minimum medical and health standards provided by RCW 41.26.045 when required to do so and has not entered another public retirement system in the state for periods of service as a law enforcement officer or fire fighter shall, when electing to be covered under RCW 41.26.420 through 41.26.550, make an irrevocable election whether to recover prior service as a law enforcement officer or fire fighter. The employee shall make contributions for all periods of previous service as a law enforcement officer or fire fighter in accordance with the schedule established for employees in RCW 41.26.450 with interest as computed by the director. The employer of record at the time the service was rendered shall be obligated for the employer contribution in accordance with the schedule established for employees under RCW 41.26.450 with interest as computed by the director. The payment shall be made within sixty days of billing or upon such terms and conditions as are established by the director. The service recovery payments must be completed within five years of the date of election or prior to retirement, whichever occurs first.

(9) When payments were made directly by the state of Washington to a prior public retirement system as part of the retirement system's funding program, the contributions shall not be affected or transferred as a result of any action called for in this section. [1980 c 130 § 1.]

Chapter 41.32

TEACHERS' RETIREMENT

Sections

41.32.401 Budget and appropriations—Transfers from state general fund.

41.32.401 Budget and appropriations—Transfers from state general fund. For the purpose of establishing and maintaining an actuarial reserve adequate to meet present and future pension liabilities of the system and to pay for one-half of the operating expenses of the system, the board of trustees at each regular July meeting next preceding a regular session of the legislature during an odd-numbered year shall compute the amount necessary to be appropriated during the next legislative session for transfer from the state general fund to the teachers' retirement system during the next biennium. Such computation shall provide for amortization of unfunded pension liabilities over a period of not more than fifty years from July 1, 1964. The amount thus computed as necessary shall be reported to the governor by the secretary-manager of the retirement system for inclusion in the budget. The legislature shall make the necessary appropriation from the state general fund to the teachers' retirement system after considering the estimates as prepared and submitted, and shall appropriate

from the teachers' retirement fund the amount to be expended during the next biennium for operating expenses. The transfer of funds from the state general fund to the retirement system shall be at a rate determined by the board of trustees on the basis of the latest valuation prepared by the actuary employed by the board, and shall include a percentage contribution of the total earnable compensation of the members for the biennium for which the appropriation is to be made, to be known as the "normal contribution," and an additional percentage contribution of such earnable compensation, to be known as the "unfunded liability contribution." Such transfers from the general fund shall be made before the end of each calendar quarter at the rate determined by the board of trustees and shall be computed on the basis of the members' total earnable compensation received for the quarter. The members' total contributions to the teachers' retirement fund for each quarter shall serve as the basis for determining the members' total earnable compensation for the quarter. The amounts transferred shall be distributed first to the teachers' retirement fund for the payment of pensions, survivors' benefits and the state's share of the operating expenses for the system, and the balance shall be credited to the teachers' retirement pension reserve fund. The total amount of such transfers for a biennium shall not exceed the total amount appropriated by the legislature. [1980 c 87 § 15; 1963 ex.s. c 14 § 11.]

Saving—Severability—Effective date—1963 ex.s. c 14: See notes following RCW 41.32.010.

Chapter 41.36

RETIREMENT AND DISABILITY PAYMENTS IN FIRST CLASS SCHOOL DISTRICTS

Sections

41.36.010 Repealed.
41.36.020 Repealed.
41.36.030 Repealed.
41.36.040 Repealed.

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

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

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

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

Chapter 41.40

WASHINGTON PUBLIC EMPLOYEES' RETIREMENT SYSTEM

Sections

41.40.123 Nonelective position employees employed for at least nine months—Deemed in eligible position, when.

41.40.509 Transfer of membership credit from Retirement Plan of former classified employees of WSU employed by U of W—Authorized—Amounts—Deficiency.

41.40.123 Nonelective position employees employed for at least nine months—Deemed in eligible position, when. Any person who has been employed in a nonelective position for at least nine months and who has made member contributions required under this chapter throughout such period, shall be deemed to have been in an eligible position during such period of employment. [1980 c 112 § 2.]

41.40.509 Transfer of membership credit from Retirement Plan of former classified employees of WSU employed by U of W—Authorized—Amounts—Deficiency. Any former classified employee of Washington State University, who (1) was a member of the Retirement Plan as defined in RCW 41.40.500(2), and (2) is now employed by the University of Washington, having transferred employment to said university during 1966, and is a member of the Washington public employees retirement system, may transfer his or her former membership credit from the Retirement Plan to the Washington public employees retirement system created by this chapter by filing a written request therefor with the director of the department of retirement systems within thirty days after June 12, 1980; the director, with the cooperation of the proper authorities at Washington State University, shall transfer from the contract(s) issued under the retirement plan to the Washington public employees' retirement system the amount which would have been paid at the rates and on the applicable income (as defined in RCW 41.40.500(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 service at Washington State University: *Provided*, That any person so transferring may elect to eliminate from the membership service credit to be transferred the period of service at Washington State University prior to entering contributory membership in the retirement plan.

The director shall compute separately the employee and employer amounts that would have been paid from the date of membership service credit 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 Washington State University contributions made in accordance with the retirement plan: *Provided*, That any deficiency between the employer computed share and the employer accumulation of cash value in the contract(s) shall be paid by the employee to accomplish such transfer of credits prior to January 1, 1981, or prior to retirement, whichever comes first. [1980 c 112 § 1.]

Chapter 41.52

PUBLIC PENSION COMMISSION

Sections

41.52.010 Created—Composition—Qualifications and appointment of members.

41.52.010 Created—Composition—Qualifications and appointment of members. There is created the state public pension commission. The commission shall consist of five members of the house of representatives to be appointed by the speaker thereof, five members of the senate to be appointed by the president of the senate, and five members to be appointed by the governor: *Provided*, That no more than three senators nor more than three representatives shall be appointed from the same political party. All original legislative members shall be appointed before the close of the 1963 extraordinary session of the legislature and successors shall be appointed before the close of each regular session during an odd-numbered year thereafter: *Provided, further*, That if prior to the close of each regular session during an odd-numbered year, the governor shall issue a proclamation convening the legislature into special session, or the legislature shall by resolution convene the legislature into special session, following such regular session, then such appointments shall be made as a matter of closing business of such special session. Legislative members shall be subject to confirmation, as to senate members by the senate, and as to house members by the house. No terms of legislative members shall be extended without such confirmation.

The members appointed by the governor shall have the following qualifications: (1) At least one of the members shall be experienced in actuarial principles; (2) One member shall be a trustee or official of a retirement system; and (3) Three members shall have had general experience and knowledge in fields pertinent to retirement system operating, but shall not at the time of appointment or during their terms of office be trustees or officials in any retirement system. [1980 c 87 § 16; 1969 c 10 § 2; 1963 ex.s. c 17 § 1.]

Chapter 41.56

PUBLIC EMPLOYEES' COLLECTIVE BARGAINING

Sections

41.56.220 Right of employee representing bargaining unit to be absent from employment during legislative session—Replacement.

41.56.420 Interim committee on public employees collective bargaining—Duties—Reports—Recommendations to include proposed legislation.

41.56.452 Arbitration panel a state agency.

41.56.220 Right of employee representing bargaining unit to be absent from employment during legislative session—Replacement. Any public employee who represents fifty percent or more of a bargaining unit or who represents on a state-wide basis a group of five or more bargaining units shall have the right to absent himself from his employment without pay and without suffering

any discrimination in his future employment and without losing benefits incident to his employment while representing his bargaining unit at the legislature of the state of Washington during any regular or special session thereof: *Provided*, That such employee is replaced by his bargaining unit with an employee who shall be paid by the employer and who shall be qualified to perform the duties and obligations of the absent member in accordance with the rules of the civil service or other standards established by his employer for such absent employee. [1980 c 87 § 17; 1969 ex.s. c 174 § 1.]

41.56.420 Interim committee on public employees collective bargaining—Duties—Reports—Recommendations to include proposed legislation. The committee shall study the operation of chapter 108, Laws of 1967 extraordinary session, relating to public employees collective bargaining, including an evaluation of the collective bargaining practices and procedures of uniformed personnel, and review the efficacy of RCW 28.75.130 (28B.16.130), 41.06.340, 41.56.140 through 41.56.190 and 41.56.400 through 41.56.420 or any part thereof as a means of furthering and improving management relationships within public service. The committee shall submit its report to the governor and the state legislature, with a copy to the legislative council, prior to the convening of each regular session of the legislature during an odd-numbered year, or to any special session if the committee deems it appropriate. The report shall contain specific recommendations as to necessary or desirable changes, if any, in the law, and shall also include any proposed legislation necessary to implement the recommendations of the committee. [1980 c 87 § 18; 1973 c 131 § 9; 1969 ex.s. c 215 § 11.]

Construction—1973 c 131: See RCW 41.56.905.

Severability—1973 c 131: See RCW 41.56.910.

41.56.452 Arbitration panel a state agency. The arbitration panel created pursuant to RCW 41.56.450, in the performance of its duties under chapter 41.56 RCW, exercises a state function and is, for the purposes of that chapter, a state agency. [1980 c 87 § 19.]

Title 42

PUBLIC OFFICERS AND AGENCIES

Chapters

- 42.23 Code of ethics for municipal officers—Contract interests.**
42.30 Open public meetings act.

Chapter 42.23

CODE OF ETHICS FOR MUNICIPAL OFFICERS—CONTRACT INTERESTS

Sections

- 42.23.030 Interest in contracts prohibited—Excepted cases (as amended by 1979 ex.s. c 4).**

- 42.23.030 Interest in contracts prohibited—Excepted cases (as amended by 1980 c 39).**

42.23.030 Interest in contracts prohibited—Excepted cases (as amended by 1979 ex.s. c 4). No municipal officer shall be beneficially interested, directly or indirectly, in any contract which may be made by, through or under the supervision of such officer, in whole or in part, or which may be made for the benefit of his office, or accept, directly or indirectly, any compensation, gratuity or reward in connection with such contract from any other person beneficially interested therein. This section shall not apply in the following cases:

(1) The furnishing of electrical, water or other utility services by a municipality engaged in the business of furnishing such services, at the same rates and on the same terms as are available to the public generally;

(2) The designation of public depositaries for municipal funds;

(3) The publication of legal notices required by law to be published by any municipality, upon competitive bidding or at rates not higher than prescribed by law for members of the general public;

(4) The designation of a school director as clerk or as both clerk and purchasing agent of a school district;

(5) The employment of any person by a municipality, other than a county of the first class or higher, a city of the first or second class, an irrigation district encompassing in excess of fifty thousand acres, or a first class school district, for unskilled day labor at wages not exceeding one hundred dollars in any calendar month;

(6) The letting of any other contract (except a sale or lease as seller or lessor) by a municipality, other than a county of the first class or higher, a city of the first or second class, an irrigation district encompassing in excess of fifty thousand acres, or a first class school district: *Provided*, That the total volume of business represented by such contract or contracts in which a particular officer is interested, singly or in the aggregate, as measured by the dollar amount of the municipality's liability thereunder, shall not exceed two hundred dollars in any calendar month: *Provided further*, That in the case of a particular officer of a city or town of the third, or fourth class, or a noncharter optional code city, the total volume of such contract or contracts authorized in this subsection may exceed two hundred dollars in any calendar month but shall not exceed thirty-six hundred dollars in any calendar year;

(7) The leasing by a port district as lessor of port district property to a municipal officer or to a contracting party in which a municipal officer may be beneficially interested, if in addition to all other legal requirements, a board of three disinterested appraisers, who shall be appointed from members of the American institute of real estate appraisers by the presiding judge of the superior court in the county where the property is situated, shall find and the court finds that all terms and conditions of such lease are fair to the port district and are in the public interest. [1979 ex.s. c 4 § 1; 1971 ex.s. c 242 § 1; 1961 c 268 § 4.]

42.23.030 Interest in contracts prohibited—Excepted cases (as amended by 1980 c 39). No municipal officer shall be beneficially interested, directly or indirectly, in any contract which may be made by, through or under the supervision of such officer, in whole or in part, or which may be made for the benefit of his office, or accept, directly or indirectly, any compensation, gratuity or reward in connection with such contract from any other person beneficially interested therein. This section shall not apply in the following cases:

(1) The furnishing of electrical, water or other utility services by a municipality engaged in the business of furnishing such services, at the same rates and on the same terms as are available to the public generally;

(2) The designation of public depositaries for municipal funds;

(3) The publication of legal notices required by law to be published by any municipality, upon competitive bidding or at rates not higher than prescribed by law for members of the general public;

(4) The designation of a school director as clerk or as both clerk and purchasing agent of a school district;

(5) The employment of any person by a municipality, other than a county of the first class or higher, a city of the first or second class, or a first class school district, for unskilled day labor at wages not exceeding one hundred dollars in any calendar month;

(6) The letting of any other contract (except a sale or lease as seller or lessor) by a municipality, other than a county of the first class or higher, a city of the first or second class, or a first class school district:

Provided, That the total volume of business represented by such contract or contracts in which a particular officer is interested, singly or in the aggregate, as measured by the dollar amount of the municipality's liability thereunder, shall not exceed two hundred dollars in any calendar month: *Provided further*, That in the case of a particular officer of a city or town of the third, or fourth class, or a noncharter optional code city, the total volume of such contract or contracts authorized in this subsection may exceed two hundred dollars in any calendar month but shall not exceed thirty-six hundred dollars in any calendar year;

(7) The leasing by a port district as lessor of port district property to a municipal officer or to a contracting party in which a municipal officer may be beneficially interested, if in addition to all other legal requirements, a board of three disinterested appraisers, who shall be appointed from members of the American institute of real estate appraisers by the presiding judge of the superior court in the county where the property is situated, shall find and the court finds that all terms and conditions of such lease are fair to the port district and are in the public interest;

(8) The letting of any contract for the driving of a school bus in a second class school district: *Provided*, That the terms of such contract shall be commensurate with the pay plan or collective bargaining agreement operating in the district;

(9) The letting of any contract to the spouse of an officer of a second class school district in which less than two hundred full time equivalent students are enrolled at the start of the school year as defined in RCW 28A.01.020, when such contract is solely for employment as a certificated or classified employee of the school district. [1980 c 39 § 1; 1971 ex.s. c 242 § 1; 1961 c 268 § 4.]

Reviser's note: RCW 42.23.030 was amended by 1979 ex.s. c 4 and again in the 1980 session by a bill introduced in the 1979 session [Substitute House Bill No. 1210] but not finally acted upon until the 1980 session, the latter without reference to the amendment made in 1979 ex.s. c 4. Since the two amendments are not in conflict, we are treating the same as double amendments for codification purposes.

Severability—1980 c 39: "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." [1980 c 39 § 3.]

Chapter 42.30

OPEN PUBLIC MEETINGS ACT

Sections

42.30.200 Governing body of recognized student association at college or university—Chapter applicability to.

42.30.200 Governing body of recognized student association at college or university—Chapter applicability to. The multmember student board which is the governing body of the recognized student association at a given campus of a public institution of higher education is hereby declared to be subject to the provisions of the open public meetings act as contained in this chapter, as now or hereafter amended. For the purposes of this section, "recognized student association" shall mean any body at any of the state's colleges and universities which selects officers through a process approved by the student body and which represents the interests of students. Any such body so selected shall be recognized by and registered with the respective boards of trustees and regents of the state's colleges and universities: *Provided*, That there be no more than one such association representing undergraduate students, no more than one such association representing graduate students, and no more than one such association representing each group of professional students so recognized and registered at any of the state's colleges or universities. [1980 c 49 § 1.]

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Title 43

STATE GOVERNMENT—EXECUTIVE

Chapters

- 43.03 Salaries and expenses.
- 43.07 Secretary of state.
- 43.08 State treasurer.
- 43.19 Department of general administration.
- 43.21A Department of ecology.
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- 43.56 Uniform legislation commission.
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- 43.75 State building authority—Indebtedness—Refunding—Bond issue.
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- 43.126 Geographic names.
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Chapter 43.03

SALARIES AND EXPENSES

Sections

43.03.028 State committee on salaries—Members—Duties—Reports.

43.03.028 State committee on salaries—Members—Duties—Reports. (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 each regular session of the legislature during an odd-numbered year, 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 during an odd-numbered year its recommendation for 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.

(4) Committee members shall be reimbursed by the department of personnel for travel expenses under RCW 43.03.050 and 43.03.060. [1980 c 87 § 20. Prior: 1977 ex.s. c 127 § 1; 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.]

Severability—1970 ex.s. c 43: See note following RCW 43.03.027.

**Chapter 43.07
SECRETARY OF STATE**

Sections
43.07.030 General duties.

43.07.030 General duties. The secretary of state shall:

(1) Keep a register of and attest the official acts of the governor;

(2) Affix the state seal, with his attestation, to commissions, pardons, and other public instruments to which

the signature of the governor is required, and also attestations and authentications of certificates and other documents properly issued by the secretary;

(3) Record all articles of incorporation, letters patent, deeds, certified copies of franchises, or other papers filed in his office;

(4) Receive and file all the official bonds of officers required to be filed with him;

(5) Take and file in his office receipts for all books distributed by him;

(6) Certify to the legislature the election returns for all officers required by the Constitution to be so certified, and certify to the governor the names of all other persons who have received at any election the highest number of votes for any office the incumbent of which is to be commissioned by the governor;

(7) Furnish, on demand, to any person paying the fees therefor, a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in his office;

(8) Present to the speaker of the house of representatives, at the beginning of each regular session of the legislature during an odd-numbered year, a full account of all purchases made and expenses incurred by him on account of the state;

(9) File in his office an impression of each and every seal in use by any state officer, and furnish state officers with new seals when necessary;

(10) Keep a fee book, in which must be entered all fees charged or received by him, with the date, name of the payor, paid or unpaid, and the nature of the services in each case, which must be verified annually by his affidavit entered therein. [1980 c 87 § 21; 1969 ex.s. c 53 § 3; 1965 c 8 § 43.07.030. Prior: 1890 p 630 § 2; RRS § 10992.]

**Chapter 43.08
STATE TREASURER**

Bond issue of 1980 for construction of common school plant facilities, treasurer's duties: Chapter 28A.47B RCW.

**Chapter 43.19
DEPARTMENT OF GENERAL ADMINISTRATION**

| | |
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| Sections | |
| 43.19.190 | State purchasing and material control director— Powers and duties. |
| 43.19.1905 | State-wide policy for purchasing and material control—Establishment—Functions covered. |
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| 43.19.680 | Implementation of energy conservation and maintenance procedures—Implementation plan for energy conservation measures. |
| 43.19.685 | Lease covenants, conditions, and terms to be developed. |

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 RCW 43.19.190 through 43.19.1937 do 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 universities operating hospitals may make purchases for hospital operation by participating in contracts for materials, supplies, and equipment entered into by cooperative hospital service organizations as defined in section 501(e) of the Internal Revenue Code, or its successor: *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, 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. [1980 c 103 § 1; 1979 c 88 § 1; 1977 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.]

Severability—1980 c 103: "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." [1980 c 103 § 3.] This applies to RCW 43.19.190 and 43.19.1906.

Construction—1977 ex.s. c 270: 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.

43.19.1905 State-wide policy for purchasing and material control—Establishment—Functions covered. The director of general administration, after consultation with the supply management advisory board shall establish overall state policy for compliance by all state agencies, including educational institutions,

regarding the following purchasing and material control functions:

(a) Development of a state commodity coding system, including common stock numbers for items maintained in stores for reissue;

(b) Determination where consolidations, closures, or additions of stores operated by state agencies and educational institutions should be initiated;

(c) Institution of standard criteria for determination of when and where an item in the state supply system should be stocked;

(d) Establishment of stock levels to be maintained in state stores, and formulation of standards for replenishment of stock;

(e) Formulation of an overall distribution and redistribution system for stock items which establishes sources of supply support for all agencies, including interagency supply support;

(f) Determination of what function data processing equipment, including remote terminals, shall perform in state-wide purchasing and material control for improvement of service and promotion of economy, and the coordination of needs with the Washington state data processing authority;

(g) Standardization of records and forms used state-wide for supply system activities involving purchasing, receiving, inspecting, storing, requisitioning, and issuing functions under the provisions of RCW 43.19.510;

(h) Screening of supplies, material, and equipment excess to the requirements of one agency for overall state need before sale as surplus;

(i) Establishment of warehouse operation and storage standards to achieve uniform, effective, and economical operations;

(j) Establishment of time limit standards for the issuing of material in store and for processing requisitions requiring purchase;

(k) Formulation of criteria for determining when centralized rather than decentralized purchasing shall be used to obtain maximum benefit of volume buying of identical or similar items, including procurement from federal supply sources;

(l) Development of criteria for use of leased, rather than state owned, warehouse space based on relative cost and accessibility;

(m) Institution of standard criteria for purchase and placement of state furnished materials, carpeting, furniture, fixtures, and nonfixed equipment, in newly constructed or renovated state buildings;

(n) Determination of how transportation costs incurred by the state for materials, supplies, services, and equipment can be reduced by improved freight and traffic coordination and control;

(o) Establishment of a formal certification program for state employees who are authorized to perform purchasing functions as agents for the state under the provisions of chapter 43.19 RCW;

(p) Development of performance measures for the reduction of total overall expense for material, supplies, equipment, and services used each biennium by the state;

(q) Establishment of a standard system for all state organizations to record and report dollar savings and cost avoidance which are attributable to the establishment and implementation of improved purchasing and material control procedures;

(r) Development of procedures for mutual and voluntary cooperation between state agencies, including educational institutions, and political subdivisions for exchange of purchasing and material control services;

(s) Resolution of all other purchasing and material matters referred to him by a member of the advisory board which require the establishment of overall state-wide policy for effective and economical supply management;

(t) Development of guidelines and criteria for the purchase of vehicles, alternate vehicle fuels and systems, equipment, and materials that reduce overall energy-related costs and energy use by the state, including the requirement that new passenger vehicles purchased by the state meet the minimum standards for passenger automobile fuel economy established by the United States secretary of transportation pursuant to the energy policy and conservation act (15 U.S.C. Sec. 2002). [1980 c 172 § 7; 1975-'76 2nd ex.s. c 21 § 5.]

Legislative finding—Declaration—Purpose—1980 c 172: See notes following RCW 43.19.670.

Severability—1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

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;

(4) Purchases of insurance and bonds by the risk management office under RCW 43.19.1935 as now or hereafter amended;

(5) Purchases and contracts for vocational rehabilitation clients of the department of social and health services: *Provided*, That this exemption shall be effective only when the state purchasing and material control director, after consultation with the director of the division of vocational rehabilitation and appropriate department of social and health services procurement personnel, declares that such purchases may be best executed through direct negotiation with one or more suppliers in order to expeditiously meet the special needs of the state's vocational rehabilitation clients; and

(6) Purchases by universities for hospital operation made by participating in contracts for materials, supplies, and equipment entered into by cooperative hospital service organizations as defined in section 501(e) of the Internal Revenue Code, or its successor. [1980 c 103 § 2; 1979 ex.s. c 14 § 1; 1977 ex.s. c 270 § 5; 1975-'76 2nd ex.s. c 21 § 8; 1965 c 8 § 43.19.1906. Prior: 1959 c 178 § 4.]

Severability—1980 c 103: See note following RCW 43.19.190.

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

Severability—1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

43.19.1911 Letting contract—Lowest responsible bidder, determination—Public inspection of bids. When purchases are made through competitive bidding, the contract shall be let to the lowest responsible bidder, subject to any preferences provided by law to Washington products and vendors, taking into consideration the quality of the articles proposed to be supplied, their conformity with specifications, the purposes for which required, and the times of delivery: *Provided*, That whenever there is reason to believe that the lowest acceptable bid is not the best price obtainable, all bids may be rejected and the division of purchasing may call

for new bids or enter into direct negotiations to achieve the best possible price. Each bid with the name of the bidder shall be entered of record and each record, with the successful bid indicated, shall, after letting of the contract, be open to public inspection. In determining "lowest responsible bidder", in addition to price, the following elements shall be given consideration:

(1) The ability, capacity and skill of the bidder to perform the contract or provide the service required;

(2) The character, integrity, reputation, judgment, experience and efficiency of the bidder;

(3) Whether the bidder can perform the contract within the time specified;

(4) The quality of performance of previous contracts or services;

(5) The previous and existing compliance by the bidder with laws relating to the contract or services;

(6) Such other information as may be secured having a bearing on the decision to award the contract: *Provided*, That in considering bids for purchase, manufacture, or lease, and in determining the "lowest responsible bidder," whenever there is reason to believe that applying the "life cycle costing" technique to bid evaluation would result in lowest total cost to the state, first consideration shall be given by state purchasing activities to the bid with the lowest life cycle cost which complies with specifications. "Life cycle cost" means the total cost of an item to the state over its estimated useful life, including costs of selection, acquisition, operation, maintenance, and where applicable, disposal, as far as these costs can reasonably be determined, minus the salvage value at the end of its estimated useful life. The "estimated useful life" of an item means the estimated time from the date of acquisition to the date of replacement or disposal, determined in any reasonable manner. [1980 c 172 § 8; 1965 c 8 § 43.19.1911. Prior: 1959 c 178 § 6.]

Legislative finding—Declaration—Purpose—1980 c 172: See notes following RCW 43.19.670.

43.19.670 Definitions. As used in RCW 43.19.670 through 43.19.685, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Energy audit" means a determination of the energy consumption characteristics of a building which:

(a) Identifies the type, size, and rate of energy consumption of the building and the major energy using systems of the building;

(b) Determines appropriate energy conservation maintenance and operating procedures; and

(c) Indicates the need, if any, for the acquisition and installation of energy conservation measures.

(2) "Energy conservation measure" means an installation or modification of an installation in a building which is primarily intended to reduce energy consumption or allow the use of an alternative energy source, including:

(a) Insulation of the building structure and systems within the building;

(b) Storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflective glazed and

coated windows and door systems, additional glazing, reductions in glass area, and other window and door system modifications;

(c) Automatic energy control systems;

(d) Equipment required to operate variable steam, hydraulic, and ventilating systems adjusted by automatic energy control systems;

(e) Solar space heating or cooling systems, solar electric generating systems, or any combination thereof;

(f) Solar water heating systems;

(g) Furnace or utility plant and distribution system modifications including replacement burners, furnaces, and boilers which substantially increase the energy efficiency of the heating system; devices for modifying flue openings which will increase the energy efficiency of the heating system; electrical or mechanical furnace ignitions systems which replace standing gas pilot lights; and utility plant system conversion measures including conversion of existing oil- and gas-fired boiler installations to alternative energy sources;

(h) Caulking and weatherstripping;

(i) Replacement or modification of lighting fixtures which increase the energy efficiency of the lighting system;

(j) Energy recovery systems; and

(k) Such other measures as the director finds will save a substantial amount of energy.

(3) "Energy conservation maintenance and operating procedure" means modification or modifications in the maintenance and operations of a building, and any installations within the building, which are designed to reduce energy consumption in the building and which require no significant expenditure of funds. [1980 c 172 § 3.]

Legislative finding—Declaration—1980 c 172: "The legislature finds and declares that the buildings, facilities, equipment, and vehicles owned or leased by state government consume significant amounts of energy and that energy conservation actions to provide for efficient energy use in these buildings, facilities, equipment, and vehicles will reduce the costs of state government. In order for the operations of state government to provide the citizens of this state an example of energy use efficiency, the legislature further finds and declares that state government should undertake an aggressive program designed to reduce energy use in state buildings, facilities, equipment, and vehicles within a reasonable period of time." [1980 c 172 § 1.]

Purpose—1980 c 172: "It is the purpose of sections 3 through 6 of this act to require energy audits in state-owned buildings, to require energy audits as a lease condition in all new, renewed, and renegotiated leases of buildings by the state, to undertake such modifications and installations as are necessary to maximize the efficient use of energy in these buildings, and to establish a policy for the purchase of state vehicles, equipment, and materials which results in efficient energy use by the state." [1980 c 172 § 2.] This applies to RCW 43.19.670 through 43.19.685.

43.19.675 Energy audits of state-owned buildings required—Completion dates—Findings compiled. The director of general administration, in cooperation with the director of the state energy office, shall conduct, by contract or other arrangement, an energy audit for each state-owned building. All energy audits shall be coordinated with and complement other governmental energy audit programs. The energy audit for each state-owned

building located on the capitol campus shall be completed no later than July 1, 1981, and the results and findings of each energy audit shall be compiled and transmitted to the governor and the legislature no later than October 1, 1981. The energy audit for every other state-owned building shall be completed no later than July 1, 1983, and the results and findings of the audits shall be compiled and transmitted to the governor and the legislature no later than October 1, 1983. [1980 c 172 § 4.]

Legislative finding—Declaration—Purpose—1980 c 172: See notes following RCW 43.19.670.

43.19.680 Implementation of energy conservation and maintenance procedures—Implementation plan for energy conservation measures. (1) Upon completion of each energy audit required by RCW 43.19.675, the director of general administration shall order the implementation of energy conservation maintenance and operation procedures that may be identified for any state-owned building by the energy audit for the building.

(2) By December 31, 1981, for the capitol campus and December 31, 1983, for all other state-owned buildings, the director of general administration, in cooperation with the director of the state energy office, shall prepare and transmit to the governor and the legislature an implementation plan for energy conservation measures identified for any state-owned building by the energy audit for the building. The implementation plan shall specify the annual tasks and budget required to complete all acquisitions and installations necessary to satisfy the recommendations of the energy audit within five years of April 4, 1980. The director shall also include in the implementation plan an estimate of the savings in energy costs over the life of each building. [1980 c 172 § 5.]

Legislative finding—Declaration—Purpose—1980 c 172: See notes following RCW 43.19.670.

43.19.685 Lease covenants, conditions, and terms to be developed. The director of general administration shall develop lease covenants, conditions, and terms which:

(1) Obligate the lessor to conduct or have conducted an energy audit of the leased premises;

(2) Obligate the lessor to implement identified energy conservation maintenance and operating procedures upon completion of the energy audit; and

(3) Obligate the lessor to acquire and install during the term of the lease any energy conservation measure identified in the audit.

These lease covenants, conditions, and terms shall be incorporated into all new, renewed, and renegotiated leases. [1980 c 172 § 6.]

Legislative finding—Declaration—Purpose—1980 c 172: See notes following RCW 43.19.670.

Chapter 43.21A
DEPARTMENT OF ECOLOGY

Sections

43.21A.130 Studies by director—Limitations.

43.21A.130 Studies by director—Limitations. In addition to any other powers granted the director, he may undertake studies dealing with all aspects of environmental problems involving land, water, or air: *Provided*, That in the absence of specific legislative authority, such studies shall be limited to investigations of particular problems, and shall not be implemented by positive action: *Provided further*, That the results of all such studies shall be submitted to the legislature prior to thirty days before the beginning of each regular session during an odd-numbered year. [1980 c 87 § 22; 1970 ex.s. c 62 § 13.]

Chapter 43.21C
STATE ENVIRONMENTAL POLICY

Sections

43.21C.032 Restoration of interim transportation services—Hood Canal bridge—Reconstruction of permanent bridge—Exemption from RCW 43.21C.030(2)(c).

43.21C.032 Restoration of interim transportation services—Hood Canal bridge—Reconstruction of permanent bridge—Exemption from RCW 43.21C.030(2)(c). Nothing in RCW 43.21C.030(2)(c) shall be construed to require the preparation of a detailed statement or the making of a threshold determination for any decision or any action commenced prior to December 31, 1982, pertaining to (1) the restoration of interim transportation services, as may be necessary as a consequence of the destruction of the Hood Canal bridge, including, but not limited to, improvements to highways, development of park and ride facilities, and development of ferry terminal facilities until a new or reconstructed Hood Canal bridge is open to traffic; and (2) the reconstruction of a permanent bridge at the site of the original Hood Canal bridge. [1980 c 2 § 2; 1979 ex.s. c 84 § 2.]

Intent—1980 c 2; 1979 ex. sess. c 84: "The legislature finds that high tides and hurricane force winds on February 13, 1979, caused conditions resulting in the catastrophic destruction of the Hood Canal bridge on state route 104, a state highway on the federal-aid system; and, as a consequence, the state of Washington has sustained a sudden and complete failure of a major segment of highway system with a disastrous impact on transportation services between the counties of Washington's Olympic peninsula and the remainder of the state. The governor has by proclamation found that these conditions constitute an emergency. To minimize the economic loss and hardship to residents of the Puget Sound and Olympic peninsula regions, it is the intent of this act to authorize the department of transportation to undertake immediately all necessary actions to restore interim transportation services across Hood Canal and Puget Sound and upon the Kitsap and Olympic peninsulas and to design and reconstruct a permanent bridge at the site of the original Hood Canal bridge. The department of transportation is directed to proceed with such actions in an environmentally responsible manner that would meet the substantive objectives of the state environmental policy act and the shorelines management act, and shall consult with the department of ecology in the planning process.

The exemptions from the state environmental policy act and the shorelines management act contained in RCW 43.21C.032 and 90.58.030 are intended to approve and ratify the timely actions of the department of transportation taken and to be taken to restore interim transportation services and to reconstruct a permanent Hood Canal bridge without procedural delays." [1980 c 2 § 1; 1979 ex.s. c 84 § 1.] The reference to "this act" refers to 1979 ex.s. c 84 which consists of this section, the amendment to RCW 90.58.030 by 1979 ex.s. c 84, and to new sections RCW 43.21C.032 and 90.58.145.

Chapter 43.21G
ENERGY SUPPLY EMERGENCIES, ALERTS

Sections

43.21G.040 Governor's energy emergency powers—Energy supply alert—Construction of chapter.

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 special 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, 1981. [1980 c 87 § 23; 1979 ex.s. c 158 § 1; 1977 ex.s. c 328 § 4; 1975-'76 2nd ex.s. c 108 § 18.]

Severability—1977 ex.s. c 328: See note following RCW 43.21G.010.

Chapter 43.22

DEPARTMENT OF LABOR AND INDUSTRIES

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| Sections | |
| 43.22.440 | Mobile home installation service and warranty service standards—Inspection and enforcement—Penalty. |
| 43.22.442 | Requirement of timely compensation by mobile home manufacturer to representative for warranty service performed. |

43.22.440 Mobile home installation service and warranty service standards—Inspection and enforcement—Penalty. (1) In consultation with the governor's advisory board for mobile homes, the director of labor and industries shall by rule establish minimum

standards for the performance and workmanship of installation service and warranty service by persons or entities engaged in performing the services within this state for all mobile homes, as defined in RCW 46.04.302. The standards shall conform, where applicable, with statutes, rules, and recommendations established under the federal national mobile home construction and safety standards act of 1974 (42 U.S.C. Sec. 5401 et seq.). The rules may, to the extent deemed necessary by the director, provide for inspection and enforcement of the standards so established, and may permit the director to appoint an agent, or agents, as necessary to provide for the inspections and enforcement.

(2) In addition to and in conjunction with the remedies provided in this chapter, failure to remedy any breach of the standards and rules so established, upon adequate notice and within a reasonable time, is a violation of the consumer protection act, chapter 19.86 RCW and subject to the remedies provided in that chapter. [1980 c 153 § 1.]

43.22.442 Requirement of timely compensation by mobile home manufacturer to representative for warranty service performed. A manufacturer of mobile homes who designates a representative within this state to provide consumers with warranty service for mobile homes on behalf of the manufacturer shall make reasonable and timely compensation to the representative for performance of the warranty service. [1980 c 153 § 2.]

Chapter 43.30

DEPARTMENT OF NATURAL RESOURCES

Sections

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| 43.30.310 | Rules and regulations pertaining to public use of state lands—Enforcement—Penalty. (Effective until January 1, 1981.) |
| 43.30.310 | Rules and regulations pertaining to public use of state lands—Enforcement—Penalty. (Effective January 1, 1981.) |

43.30.310 Rules and regulations pertaining to public use of state lands—Enforcement—Penalty. (Effective until January 1, 1981.) For the promotion of the public safety and the protection of public property, the department of natural resources may, in accordance with chapter 34.04 RCW, issue, promulgate, adopt, and enforce rules and regulations pertaining to use by the public of state-owned lands and property which are administered by the department.

A violation of any rule or regulation adopted under this section shall constitute a misdemeanor.

The commissioner of public lands and such of his employees as he may designate shall be vested with police powers when enforcing:

(1) The rules and regulations of the department adopted under this section; or

(2) The general criminal statutes or ordinances of the state or its political subdivisions where enforcement is necessary for the protection of state-owned lands and property. [1969 ex.s. c 160 § 1.]

43.30.310 Rules and regulations pertaining to public use of state lands—Enforcement—Penalty. (Effective January 1, 1981.) For the promotion of the public safety and the protection of public property, the department of natural resources may, in accordance with chapter 34.04 RCW, issue, promulgate, adopt, and enforce rules and regulations pertaining to use by the public of state-owned lands and property which are administered by the department.

A violation of any rule or regulation adopted under this section shall constitute a misdemeanor: *Provided*, That violation of a rule or regulation relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of a rule or regulation equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor.

The commissioner of public lands and such of his employees as he may designate shall be vested with police powers when enforcing:

(1) The rules and regulations of the department adopted under this section; or

(2) The general criminal statutes or ordinances of the state or its political subdivisions where enforcement is necessary for the protection of state-owned lands and property. [1979 ex.s. c 136 § 38; 1969 ex.s. c 160 § 1.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Chapter 43.33

FINANCE COMMITTEE—INVESTMENT ADVISORY COMMITTEE

Bond issue of 1980 for construction of common school plant facilities, committee duties: Chapter 28A.47B RCW.

Chapter 43.41

DIRECTOR OF FINANCIAL MANAGEMENT

Sections

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| 43.41.130 | Passenger motor vehicles owned or operated by state agencies—Duty to establish policies as to acquisition, operation, authorized use, etc.—Use of gasohol and alternative fuels. |
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43.41.130 Passenger motor vehicles owned or operated by state agencies—Duty to establish policies as to acquisition, operation, authorized use, etc.—Use of gasohol and alternative fuels. The director of financial management, after consultation with other interested or affected state agencies and approval of the automotive policy board established pursuant to RCW 43.19.580, shall establish overall policies governing the acquisition, operation, management, maintenance, repair, and disposal of, all passenger motor vehicles owned or operated by any state agency. Such policies shall include but not be limited to a definition of what constitutes authorized use of a state owned or controlled passenger motor vehicle and other motor vehicles on official state business. The definition shall include, but not be limited to, the use of state-owned motor vehicles for commuter ride

sharing so long as the entire capital depreciation and operational expense of the commuter ride-sharing arrangement is paid by the commuters. Any use other than such defined use shall be considered as personal use.

Such policies shall also include the widest possible use of gasohol and cost-effective alternative fuels in all motor vehicles owned or operated by any state agency. As used in this section, "gasohol" means motor vehicle fuel which contains more than nine and one-half percent alcohol by volume. [1980 c 169 § 1; 1979 c 111 § 12; 1975 1st ex.s. c 167 § 5.]

Severability—1979 c 111: See note following RCW 46.74.010.

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

Commuter ride sharing: Chapter 46.74 RCW.

Motor vehicle transportation: RCW 43.19.560–43.19.635.

Chapter 43.43

WASHINGTON STATE PATROL

Sections

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| 43.43.120 | Patrol retirement system—Definitions. |
| 43.43.130 | Retirement fund created—Membership. |
| 43.43.610 | Drug control assistance unit—Duties. |
| 43.43.640 | Drug control assistance unit—Certain investigators exempt from state civil service act. |
| 43.43.670 | Crime laboratory created—Powers—Priorities. |
| 43.43.858 | Organized crime advisory board—Created—Membership—Meetings—Travel expenses. |
| 43.43.860 | Organized crime advisory board—Terms of members. |
| 43.43.866 | Organized crime prosecution revolving fund. |

Towing operators, appointment of by commission on equipment: RCW 46.61.567.

43.43.120 Patrol retirement system—Definitions.

As used in the following sections:

(1) "Retirement system" means the Washington state patrol retirement system.

(2) "Retirement fund" means the Washington state patrol retirement fund.

(3) "State treasurer" means the treasurer of the state of Washington.

(4) "Member" means any person included in the membership of the retirement fund.

(5) "Employee" means any commissioned employee of the Washington state patrol.

(6) "Cadet" is a person who has passed the Washington state patrol's entry-level oral, written, physical performance, and background examinations and is, thereby, appointed by the chief as a candidate to be a commissioned officer of the Washington state patrol.

(7) "Beneficiary" means any person in receipt of retirement allowance or any other benefit allowed by this chapter.

(8) "Regular interest" means interest compounded annually at such rates as may be determined by the retirement board.

(9) "Retirement board" means the board provided for in this chapter.

(10) "Insurance commissioner" means the insurance commissioner of the state of Washington.

(11) "Lieutenant governor" means the lieutenant governor of the state of Washington.

(12) "Service" shall mean services rendered to the state of Washington or any political subdivisions thereof for which compensation has been paid. Full time employment for ten days or more 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 herein. 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 benefit.

(13) "Prior service" shall mean all services rendered by a member to the state of Washington, or any of its political subdivisions prior to August 1, 1947, unless such service has been credited in another public retirement or pension system operating in the state of Washington.

(14) "Current service" shall mean all service as a member rendered on or after August 1, 1947.

(15) "Average final salary" shall mean the average monthly salary received by a member during his last two years of service or any consecutive two year period of service, whichever is the greater, as an employee of the Washington state patrol; or if he has less than two years of service, then the average monthly salary received by him during his total years of service.

(16) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality table as may be adopted and such interest rate as may be determined by the board.

(17) Unless the context expressly indicates otherwise, words importing the masculine gender shall be extended to include the feminine gender and words importing the feminine gender shall be extended to include the masculine gender. [1980 c 77 § 1; 1973 1st ex.s. c 180 § 1; 1969 c 12 § 1; 1965 c 8 § 43.43.120. Prior: 1955 c 244 § 1; 1953 c 262 § 1; 1951 c 140 § 1; 1947 c 250 § 1; Rem. Supp. 1947 § 6362–81.]

Construction—1969 c 12: "The provisions of this 1969 amendatory act are intended to be remedial and procedural and any benefits heretofore paid to recipients hereunder pursuant to any previous act are retroactively included and authorized as a part of this act." [1969 c 12 § 8.] This applies to RCW 43.43.120, 43.43.170, 43.43.250, 43.43.260, 43.43.267, 43.43.270, and 43.43.280.

43.43.130 Retirement fund created—Membership.

(1) A Washington state patrol retirement fund is hereby established for members of the Washington state patrol which shall include funds created and placed under the management of a retirement board for the payment of retirement allowances and other benefits under the provisions hereof.

(2) Any employee of the Washington state patrol, upon date of commissioning, shall be eligible to participate in the retirement plan and shall start contributing to the fund immediately. Any employee of the Washington state patrol employed by the state of Washington or any of its political subdivisions prior to August 1, 1947, unless such service has been credited in

another public retirement or pension system operating in the state of Washington shall receive full credit for such prior service but after that date each new commissioned employee must automatically participate in the fund. If a member shall terminate service in the patrol and later reenter, he shall be treated in all respects as a new employee: *Provided*, That a member who reenters or has reentered service within ten years from the date of his termination, shall upon completion of six months of continuous service and upon the restoration of all withdrawn contributions, plus earned interest, which restoration must be completed within four years after resumption of service, be returned to the status of membership he earned at the time of termination.

(3) (a) An employee of the Washington state patrol who becomes a member of the retirement system after June 12, 1980, and who has service as a cadet in the patrol training program may make an irrevocable election to transfer the service to the retirement system. Any member upon making such election shall have transferred all existing service credited in a prior public retirement system in this state for periods of employment as a cadet. Transfer of credit under this subsection is contingent on completion of the transfer of funds specified in subsection (3)(b) of this section.

(b) Within sixty days of notification of a member's cadet service transfer as provided in subsection (3)(a) of this section, the department of retirement systems shall transfer:

(i) The employee's accumulated contributions attributable to the periods of service as a cadet, including accumulated interest; and

(ii) The employer's accumulated contributions attributable to the periods of service as a cadet, including accumulated interest.

(4) A member of the retirement system who has served or shall serve on active federal service in the armed forces of the United States pursuant to and by reason of orders by competent federal authority, who left or shall leave the Washington state patrol to enter such service, and who within one year from termination of such active federal service, resumes employment as a state employee, shall have his service in such armed forces credited to him as a member of the retirement system: *Provided*, That no such service in excess of five years shall be credited unless such service was actually rendered during time of war or emergency. [1980 c 77 § 2; 1965 c 8 § 43.43.130. Prior: 1953 c 262 § 2; 1951 c 140 § 2; 1947 c 250 § 2; Rem. Supp. 1947 § 6362-82.]

43.43.610 Drug control assistance unit—Duties. The drug control assistance unit shall provide investigative assistance for the purpose of enforcement of the provisions of chapters 69.32 and 69.40 RCW. [1980 c 69 § 1; 1970 ex.s. c 63 § 2.]

43.43.640 Drug control assistance unit—Certain investigators exempt from state civil service act. Any investigators employed pursuant to RCW 43.43.610 shall be exempt from the state civil service act, chapter 41.06 RCW. [1980 c 69 § 3; 1970 ex.s. c 63 § 5.]

43.43.670 Crime laboratory created—Powers—Priorities. There is created in the Washington state patrol a crime laboratory system which is authorized to:

(1) Provide laboratory services for the purpose of analyzing and scientifically handling any physical evidence relating to any crime.

(2) Provide training assistance for local law enforcement personnel.

The crime laboratory system shall assign priority to a request for services with due regard to whether the case involves criminal activity against persons. The Washington state advisory council on criminal justice services shall assist the crime laboratory system in devising policies to promote the most efficient use of laboratory resources consistent with this section. [1980 c 69 § 2.]

43.43.858 Organized crime advisory board—Created—Membership—Meetings—Travel expenses. There is hereby created the organized crime advisory board of the state of Washington. The board shall consist of thirteen voting and two nonvoting members.

The lieutenant governor shall appoint four members of the senate judiciary committee to the board, no more than two of whom shall be from the same political party.

The governor shall appoint five members to the board. Two members shall be county prosecuting attorneys and shall be appointed from a list of four county prosecutors agreed upon and submitted to the governor by the elected county prosecutors. One member shall be a municipal police chief, and one member shall be a county sheriff, both of whom shall be appointed from a list of three police chiefs and three sheriffs agreed upon and submitted to the governor by the association of sheriffs and police chiefs (RCW 36.28A.010). One member shall be a retired judge of a court of record.

The United States attorneys for the western and eastern districts of Washington shall be requested to serve on the board as nonvoting members and shall not be eligible to serve as chairperson.

The speaker of the house shall appoint four members of the house judiciary committee to the board, no more than two of whom shall be from the same political party.

The members of the board shall be qualified on the basis of knowledge and experience in matters relating to crime prevention and security or with such other abilities as may be expected to contribute to the effective performance of the board's duties. The members of the board shall meet with the chief of the Washington state patrol at least four times a year to perform the duties enumerated in RCW 43.43.862 and to discuss any other matters related to organized crime. Additional meetings of the board may be convened at the call of the chairperson or by a majority of the members. The board shall elect its own chairperson from among its members. Legislative members shall receive reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 44.04.120 as now existing or hereafter amended, and the other members in accordance with

RCW 43.03.050 and 43.03.060, as now existing or hereafter amended. [1980 c 146 § 14; 1975-'76 2nd ex.s. c 34 § 115; 1973 1st ex.s. c 202 § 5.]

Severability—1980 c 146: See RCW 10.29.900.

Effective date—**Severability**—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

State-wide special inquiry judge act: Chapter 10.29 RCW.

43.43.860 Organized crime advisory board—**Terms of members.** The term of each legislative member shall be two years and shall be conditioned upon such member retaining membership on the committee on which he was serving at the time of appointment and retaining membership in the same political party of which he was a member at the time of appointment.

The term of each nonlegislative member shall be two years and shall be conditioned upon such member retaining the official position from which he was appointed. [1980 c 146 § 15; 1973 1st ex.s. c 202 § 6.]

Severability—1980 c 146: See RCW 10.29.900.

43.43.866 Organized crime prosecution revolving fund. There shall be a fund known as the organized crime prosecution revolving fund which shall consist of such moneys as may be appropriated by law. The state treasurer shall be custodian of the revolving fund. Disbursements from the revolving fund shall be subject to budget approval given by the organized crime advisory board pursuant to RCW 10.29.090, and may be made either on authorization of the governor or the governor's designee, or upon request of a majority of the members of the organized crime advisory board. In order to maintain an effective expenditure and revenue control, the organized crime prosecution 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 the fund. [1980 c 146 § 16.]

Severability—1980 c 146: See RCW 10.29.900.

Chapter 43.51

PARKS AND RECREATION COMMISSION

Sections

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| 43.51.040 | Powers and duties—Mandatory. |
| 43.51.060 | Further powers—Director of parks and recreation—Salaries. |
| 43.51.270 | Purchase of withdrawn state trust lands—Authorized—Terms and conditions—Transfer of Heart Lake property—Heart Lake revolving fund created. |
| 43.51.280 | Purchase of Heart Lake property and of withdrawn state trust lands—Trust land purchase account. |
| 43.51.380 | Acquisition, development, etc., of urban area parks by interagency committee for outdoor recreation. |
| 43.51.385 | Establishment of urban area state parks by parks and recreation commission. |

43.51.040 Powers and duties—**Mandatory.** 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, development, redevelopment, renovation, care, control, or supervision of any park or parkway, and enter into contracts in writing to that end. All parks or parkways, to which the state contributed or in whose care, control, or supervision the state participated pursuant to the provisions of this section, shall be governed by the provisions hereof. [1980 c 89 § 1; 1979 c 10 § 4. Prior: 1977 ex.s. c 123 § 1; 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.]

Inspection of recreational devices: Chapter 70.88 RCW.

43.51.060 Further powers—Director of parks and recreation—Salaries. The commission may: (1) Make rules and regulations for the proper administration of its duties;

(2) Accept any grants of funds made with or without a matching requirement by the United States, or any agency thereof, for purposes in keeping with the purposes of this chapter; accept gifts, bequests, devises and endowments for purposes in keeping with such purposes;

(3) Require certification by the commission of all parks and recreation workers employed in state aided or state controlled programs;

(4) Act jointly, when advisable, with the United States, any other state agencies, institutions, departments, boards, or commissions in order to carry out the objectives and responsibilities of this chapter;

(5) Grant franchises and easements for any legitimate purpose on parks or parkways, for such terms and subject to such conditions and considerations as the commission shall specify;

(6) Charge such fees for services, utilities, and use of facilities as the commission shall deem proper. All fees received by the commission shall be deposited with the state treasurer in the state general fund;

(7) Enter into agreements whereby individuals or companies may rent undeveloped parks or parkway land for grazing, agricultural, or mineral development purposes upon such terms and conditions as the commission shall deem proper, for a term not to exceed ten years;

(8) Determine the qualifications of and employ a director of parks and recreation who shall receive a salary as fixed by the governor in accordance with the provisions of RCW 43.03.040, and upon his recommendation, a supervisor of recreation, and determine the qualifications and salary of and employ such other persons as may be needed to carry out the provisions hereof; and

(9) Without being limited to the powers hereinbefore enumerated, the commission shall have such other powers as in the judgment of a majority of its members are deemed necessary to effectuate the purposes of this chapter: *Provided*, That the commission shall not have power to supervise directly any local park or recreation district, and no funds shall be made available for such

purpose. [1980 c 89 § 2; 1969 c 99 § 1; 1965 c 8 § 43.51.060. Prior: 1961 c 307 § 12; 1955 c 391 § 3; 1947 c 271 § 5; RRS § 10768-4.]

Effective date—1969 c 99: "This 1969 amendatory act shall take effect July 1, 1969." [1969 c 99 § 12.] This applies to RCW 43.51.060, 43.51.090, 43.51.210, 43.79.405, 46.16.060, 46.20.161, 46.20.181, 46.68.030, 46.68.041, 46.68.050 and 46.68.060.

Interagency committee for outdoor recreation, director as member: RCW 43.99.110.

43.51.270 Purchase of withdrawn state trust lands—Authorized—Terms and conditions—

Transfer of Heart Lake property—Heart Lake revolving fund created. (1) The board of natural resources and the state parks and recreation commission shall negotiate a sale to the state parks and recreation commission, for park and outdoor recreation purposes, of the trust lands withdrawn as of August 9, 1971 pursuant to law for park purposes and included within the state parks listed in subsection (2) of this section: *Provided*, That the sale shall be by contract with a pay-off period of not less than ten years, a price of eleven million twenty-four thousand seven hundred forty dollars or the fair market value, whichever is higher, for the land value, and interest not to exceed six percent. All fees collected by the commission beginning in the 1973-1975 biennium shall be applied to the purchase price of the trust lands listed in subsection (2) of this section, the acquisition of the Heart Lake property, and all reasonable costs of acquisition, described in subsection (3) of this section, and any cost of collection pursuant to appropriations from the trust land purchase account created in RCW 43.51.280. The department of natural resources shall not receive any management fee pursuant to the sale of the trust lands listed in subsection (2) of this section. Timber on the trust lands which are the subject of this section shall continue to be under the management of the department of natural resources until such time as the legislature appropriates funds to the parks and recreation commission for purchase of said timber. The state parks which include trust lands which shall be the subject of this sale pursuant to this section are:

- (2) (a) Penrose Point
- (b) Kopachuck
- (c) Long Beach
- (d) Leadbetter Point
- (e) Nason Creek
- (f) South Whidbey
- (g) Blake Island
- (h) Rockport
- (i) Mt. Pilchuck
- (j) Ginkgo
- (k) Lewis & Clark
- (l) Rainbow Falls
- (m) Bogachiel
- (n) Sequim Bay
- (o) Federation Forest
- (p) Moran
- (q) Camano Island
- (r) Beacon Rock
- (s) Bridle Trails
- (t) Chief Kamiakin (formerly Kamiak Butte)

- (u) Lake Wenatchee
- (v) Fields Springs
- (w) Sun Lakes
- (x) Scenic Beach.

(3) The board of natural resources and the state parks and recreation commission shall negotiate a mutually acceptable transfer for adequate consideration to the state parks and recreation commission to be used for park and recreation purposes all the state-owned Heart Lake property, including the timber therein, located in section 36, township 35 north, range 1E, W.M. in Skagit county.

The funds from the trust land purchase account designated for the acquisition of the Heart Lake property, and the reasonable costs of acquisition, shall be deposited in the Heart Lake revolving fund, hereby created, to be utilized by the department of natural resources for the exclusive purpose of acquiring real property as a replacement for the Heart Lake property to maintain the land base of the common school trust lands and for the reimbursement of the department of natural resources for all reasonable costs, to include, but not exclusively, the appraisal and cruising of the timber on the property for the acquisition of the Heart Lake property. Disbursements from the Heart Lake revolving fund to acquire replacement property, and pay for all reasonable costs of acquisition, for the Heart Lake property shall be on the authorization of the board of natural resources. In order to maintain an effective expenditure and revenue control, the Heart Lake 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 the fund. The state treasurer shall be custodian of the revolving fund.

The department of natural resources shall pay all reasonable costs, to include, but not exclusively, the appraisal and cruising of the timber on the property for the acquisition of the Heart Lake property from funds provided in the trust land purchase account. Any agreement for the transfer of the Heart Lake property shall not have an interest rate exceeding ten percent.

The parks and recreation commission is authorized to accept, receive, disburse, and administer grants or funds or gifts from any source including private individuals, public entities, and the federal government to supplement the funds from the trust land purchase account for the purchase of the Heart Lake property. [1980 c 4 § 1; 1971 ex.s. c 210 § 1.]

Proceeds from Series II bonds as compensation for sale of timber from trust lands: RCW 28A.47A.100.

Withdrawal of state trust lands for park and recreational purpose: RCW 79.08.1072-79.08.1078.

43.51.280 Purchase of Heart Lake property and of withdrawn state trust lands—Trust land purchase account. There is hereby created the trust land purchase account in the state general fund. Any revenues accruing to this account shall be used exclusively for the purchase of the entire Heart Lake property described in RCW 43.51.270(3), to include all reasonable costs of acquisition, and a fee interest or such other interest in state

trust lands presently used for park purposes as the state parks and recreation commission shall determine and to reimburse the state parks and recreation commission for the cost of collecting such fees beginning with the 1973-75 fiscal biennium. [1980 c 4 § 2; 1971 ex.s. c 210 § 2.]

Proceeds from Series II bonds as compensation for sale of timber from trust lands: RCW 28A.47A.100.

43.51.380 Acquisition, development, etc., of urban area parks by interagency committee for outdoor recreation. Recognizing the fact that the demand for park services is greatest in our urban areas, that parks should be accessible to all Washington citizens, that the urban poor cannot afford to travel to remotely located parks, that few state parks are located in or near urban areas, that a need exists to conserve energy, and that local governments having jurisdiction in urban areas cannot afford the costs of maintaining and operating the extensive park systems needed to service their large populations, the legislature hereby directs the interagency committee for outdoor recreation to place a high priority on the acquisition, development, redevelopment, and renovation of parks to be located in or near urban areas and to be particularly accessible to and used by the populations of those areas. For purposes of RCW 43.51.380 and 43.51.385, "urban areas" mean any incorporated city with a population of five thousand persons or greater or any county with a population density of two hundred fifty persons per square mile or greater. This section shall be implemented by January 1, 1981. [1980 c 89 § 3.]

43.51.385 Establishment of urban area state parks by parks and recreation commission. For the reasons specified in RCW 43.51.380, the state parks and recreation commission shall place a high priority on the establishment of urban area state parks and shall revise its plan for future state parks to achieve this priority. This section shall be implemented by January 1, 1981. [1980 c 89 § 4.]

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 during an odd-numbered year, and may at any other time, make a report to the legislature of its doings and recommendations. [1980 c 87 § 24; 1977 c 75 § 59; 1965 c 8 § 43.56.030. Prior: 1905 c 59 § 3; RRS § 8206.]

Chapter 43.74

BASIC SCIENCE LAW

Sections

43.74.030 Repealed.

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

Chapter 43.75

STATE BUILDING AUTHORITY— INDEBTEDNESS—REFUNDING—BOND ISSUE

Sections

43.75.220 Repealed. (Effective September 1, 1981.)

43.75.220 Repealed. (Effective September 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 43.79

STATE FUNDS

Sections

43.79.330 Miscellaneous state funds—Moneys transferred to accounts in the general fund. (Effective September 1, 1981.)

43.79.425 Current state school fund—Abolished—Moneys transferred.

43.79.430 Lewis river hatchery fund. (Effective until September 1, 1981.)

43.79.430 Moneys from Inland Power & Light company to be deposited in general fund. (Effective September 1, 1981.)

General fund

appropriations by legislature (for common school purposes):
RCW 28A.41.050,
special account in general fund for support of common schools:
RCW 82.45.180,
state general fund—Estimates for state support to public schools from: RCW 28A.41.040,
state general fund support to public schools—School district reimbursement programs: Chapter 28A.41 RCW.

43.79.330 Miscellaneous state funds—Moneys transferred to accounts in the general fund. (Effective September 1, 1981.) All moneys to the credit of the following state funds on the first day of August, 1955, and all moneys thereafter paid to the state treasurer for or to the credit of such funds, are hereby transferred to the following accounts in the state general fund, the creation of which is hereby authorized:

- (1) Capitol building construction fund moneys, to the capitol building construction account;
- (2) Cemetery fund moneys, to the cemetery account;
- (3) Feed and fertilizer fund moneys, to the feed and fertilizer account;
- (4) Forest development fund moneys, to the forest development account;
- (5) Harbor improvement fund moneys, to the harbor improvement account;
- (6) Investment reserve fund moneys, to the investment reserve account;
- (7) Millersylvania Park current fund moneys, to the Millersylvania Park current account;
- (8) Puget Sound pilotage fund moneys, to the Puget Sound pilotage account;

[1980 RCW Supp—page 128]

(9) Real estate commission fund moneys, to the real estate commission account;

(10) Reclamation revolving fund moneys, to the reclamation revolving account;

(11) University of Washington building fund moneys, to the University of Washington building account; and

(12) State College of Washington building fund moneys, to the Washington State University building account. [1980 c 32 § 3; 1979 ex.s. c 67 § 3; 1965 c 8 § 43.79.330. Prior: 1959 c 273 § 6; 1957 c 115 § 6; 1955 c 370 § 1.]

Effective date—1980 c 32 § 3: "Section 3 of this act shall take effect September 1, 1981." [1980 c 32 § 4.] Section 3 of this act is the 1980 c 32 amendment to RCW 43.79.330.

Severability—1979 ex.s. c 67: See note following RCW 19.28.330.

43.79.425 Current state school fund—Abolished—Moneys transferred. On and after June 12, 1980, the current state school fund is abolished and the state treasurer shall transfer any moneys in such account on such June 12, 1980, or any moneys thereafter received for such account, to the common school construction fund as referred to in RCW 28A.40.100. [1980 c 6 § 6.]

Severability—1980 c 6: See note following RCW 28A.40.100.

43.79.430 Lewis river hatchery fund. (Effective until September 1, 1981.) That there be and is hereby created a fund in the state treasury to be known as the "Lewis river hatchery fund," into which shall be paid all monies received from the Inland Power & Light company, its successors and assigns, in virtue of an agreement made and entered into between said company and the State of Washington on August 31, 1932, relating to a fish hatchery on Lewis river. [1933 c 123 § 1. Formerly uncodified.]

43.79.430 Moneys from Inland Power & Light company to be deposited in general fund. (Effective September 1, 1981.) All monies received from the Inland Power & Light company, its successors and assigns, in virtue of an agreement made and entered into between said company and the State of Washington on August 31, 1932, relating to a fish hatchery on Lewis river, shall be deposited in the general fund. [1980 c 32 § 1; 1933 c 123 § 1.]

Effective date—1980 c 32 § 1: "Section 1 of this act shall take effect September 1, 1981." [1980 c 32 § 2.]

Chapter 43.83A

WASTE DISPOSAL FACILITIES BOND ISSUE

Sections

43.83A.010 Declaration.
43.83A.050 Definitions.

Waste disposal facilities—1980 bond issue: Chapter 43.99F RCW.

43.83A.010 Declaration. The long-range development goals for the state of Washington must include the protection of the resources and environment of the state

and the health and safety of its people by providing adequate facilities and systems for the collection, treatment, control, or disposal of solid or liquid waste materials. [1980 c 21 § 1; 1972 ex.s. c 127 § 1.]

43.83A.050 Definitions. As used in this chapter, the term "waste disposal facilities" shall mean any facilities or systems owned or operated by a public body for the collection, storage, treatment, disposal, recycling, control, or recovery of liquid wastes or solid wastes, including, but not limited to, sanitary sewage, storm water, residential, industrial, and commercial wastes, material segregated into recyclables and nonrecyclables, and any combination of such wastes; and all equipment, utilities, structures, real property, and interests in and improvements on real property, necessary for or incidental to such purpose.

As used in this chapter, the term "public body" means the state of Washington or any agency, political subdivision, taxing district, or municipal corporation thereof, and those Indian tribes now or hereafter recognized as such by the federal government for participation in the federal land and water conservation program and which may constitutionally receive grants or loans from the state of Washington. [1980 c 21 § 2; 1979 c 68 § 1; 1972 ex.s. c 127 § 5.]

Chapter 43.88

BUDGET AND ACCOUNTING

Sections

| | |
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| 43.88.020 | Definitions. |
| 43.88.030 | Content of the budget document or documents— Separate budget document or schedules— Changes. |

43.88.020 Definitions. (1) "Budget" shall mean a proposed plan of expenditures for a given period or purpose and the proposed means for financing these expenditures;

(2) "Budget document" shall mean a formal, written statement offered by the governor to the legislature, as provided in RCW 43.88.030.

(3) "Director of financial management" shall mean the official appointed by the governor to serve at the governor's pleasure and to whom the governor may delegate necessary authority to carry out the governor's duties as provided in this chapter. The director of financial management shall be head of the office of financial management which shall be in the office of the governor.

(4) "Agency" shall mean and include every state office, officer, each institution, whether educational, correctional or other, and every department, division, board and commission, except as otherwise provided in this chapter.

(5) "Public funds", for purposes of this chapter, shall mean all moneys, including cash, checks, bills, notes, drafts, stocks and bonds, whether held in trust or for operating purposes and collected or disbursed under law, whether or not such funds are otherwise subject to legislative appropriation.

(6) "Regulations" shall mean the policies, standards and requirements, stated in writing, designed to carry out the purposes of this chapter, as issued by the governor or his designated agent, and which shall have the force and effect of law.

(7) "Ensuing biennium" shall mean the fiscal biennium beginning on July 1st of the same year in which a regular session of the legislature is held during an odd-numbered year pursuant to Article II, section 12 of the Constitution and which biennium next succeeds the current biennium.

(8) "Dedicated fund" means a fund in the state treasury, or a separate account or fund in the general fund in the state treasury, that by law is dedicated, appropriated or set aside for a limited object or purpose; but "dedicated fund" shall not include a revolving fund or a trust fund.

(9) "Revolving fund" means a fund in the state treasury, established by law, from which is paid the cost of goods or services furnished to or by a state agency, and which is replenished through charges made for such goods or services or through transfers from other accounts or funds.

(10) "Trust fund" means a fund in the state treasury in which designated persons or classes of persons have a vested beneficial interest or equitable ownership, or which was created or established by a gift, grant, contribution, devise, or bequest that limits the use of the fund to designated objects or purposes.

(11) "Administrative expenses" means expenditures for: (a) Salaries, wages, and related costs of personnel and (b) operations and maintenance including but not limited to costs of supplies, materials, services, and equipment.

(12) "Fiscal year" means the year beginning July 1st and ending the following June 30th. [1980 c 87 § 25; 1979 c 151 § 135; 1975-'76 2nd ex.s. c 83 § 4; 1973 1st ex.s. c 100 § 2; 1969 ex.s. c 239 § 9; 1965 c 8 § 43.88-.020. Prior: 1959 c 328 § 2.]

Office of financial management: Chapter 43.41 RCW.

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 during an odd-numbered year 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. [1980 c 87 § 26; 1977 ex.s. c 247 § 1; 1973 1st ex.s. c 100 § 3; 1965 c 8 § 43.88.030. Prior: 1959 c 328 § 3.]

Chapter 43.96C ENERGY FAIR '83

Sections

| | |
|------------|--|
| 43.96C.010 | Declaration of purpose. |
| 43.96C.020 | Name of fair. |
| 43.96C.030 | Energy Fair '83 commission created—Membership—Meetings. |
| 43.96C.040 | Members may be directors of nonprofit corporation—Duty to stage fair. |
| 43.96C.050 | Cooperation with departments, agencies, and political subdivisions required. |
| 43.96C.060 | Energy Fair '83 local steering committee created—Membership—Duties. |

43.96C.010 Declaration of purpose. The legislature recognizes that the energy crisis affects the lives of every citizen in the state of Washington. Encouraging conservation and the development of alternative energy resources will help solve the energy crisis. A state energy fair generating public awareness of conservation methods and energy-saving technological developments through demonstrations and exhibits will be a step towards solving the energy crisis. [1980 c 161 § 1.]

43.96C.020 Name of fair. The fair shall be known and called "Energy Fair '83". [1980 c 161 § 2.]

43.96C.030 Energy Fair '83 commission created—Membership—Meetings. There is created the Energy Fair '83 commission to consist of sixteen members to be selected as follows: Five by the governor, of whom one shall be designated by the governor as chairperson of the commission, three by the president of the senate and three by the speakers of the house of representatives to serve until December 31, 1984, the lieutenant governor, the speakers of the house of representatives, one member of the board of county commissioners of Benton county to be appointed by such board, and one member of the board of county commissioners of Franklin county to be appointed by such board. The commission shall serve without compensation and shall meet at such time as it is called by the governor or by the chairperson of the commission. [1980 c 161 § 3.]

43.96C.040 Members may be directors of nonprofit corporation—Duty to stage fair. The members of the energy fair commission may become directors of Energy Fair '83, a nonprofit corporation organized under the provisions of chapter 24.03 RCW, and may remain directors of the corporation as long as they are members of the commission or until their successors are appointed and qualified. The energy fair commission through the nonprofit corporation shall stage a fair in Franklin or Benton county during the 1983 calendar year or as soon thereafter as is considered practical by the commission. The commission shall carry out the purposes of the energy fair by suitable exhibits and demonstrations. [1980 c 161 § 4.]

43.96C.050 Cooperation with departments, agencies, and political subdivisions required. The department of commerce and economic development and the state energy office, as well as all other interested departments and agencies, shall cooperate with the energy fair commission for the fair to become a memorable success. The energy fair commission and all other state departments and agencies shall cooperate in all respects with Benton and Franklin counties and with other departments, agencies, and political subdivisions of this state. [1980 c 161 § 5.]

43.96C.060 Energy Fair '83 local steering committee created—Membership—Duties. The Energy Fair '83 local steering committee is created consisting of twelve voting members and one nonvoting member selected as follows:

- (1) One member from each of these counties: Benton, Franklin, Klickitat, Walla Walla, and Yakima appointed by the board of county commissioners of the appropriate county;
- (2) One member from each of these cities: Pasco, Richland, Kennewick, Walla Walla, Goldendale, and Yakima appointed by the legislative body of the appropriate city;
- (3) One member from the Yakima Indian Reservation appointed by the Yakima Indian Council; and
- (4) One nonvoting member, appointed by the other members, who shall be the chairperson of the committee and who shall be responsible for insuring the effective and efficient operation of the committee.

The local steering committee's duties are to coordinate the siting and location of the fair, oversee promotional activities, and engage in exploratory research. The committee shall take those steps necessary to insure the success and effectiveness of Energy Fair '83. [1980 c 161 § 6.]

Chapter 43.99C

HANDICAPPED FACILITIES BOND ISSUE

| | |
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| Sections | |
| 43.99C.045 | Administration of proceeds—Distribution. |
| 43.99C.047 | Prohibition of expenditures not submitted in budget document or schedule—Capital appropriation—Exception—Contents. |

Reviser's note: Chapter 43.99C RCW was adopted and ratified by the people at the November 6, 1979, general election (Referendum Bill No. 37). State Constitution Art. 2 § 1(d) provides: ". . . Such measure [initiatives and referendums] shall be in operation on and after the thirtieth day after the election at which it is approved . . ."

43.99C.045 Administration of proceeds—Distribution. Subject to legislative appropriation, all principal proceeds of the bonds and bond anticipation notes authorized in this chapter shall be administered by the state department of social and health services exclusively for the purposes specified in this chapter and for the payment of expenses incurred in connection with the sale and issuance of the bonds and bond anticipation notes.

In carrying out the purposes of this chapter all counties of the state shall be eligible to participate in the distribution of the bond proceeds. The share coming to each county shall be determined by a division among all counties according to the relation which the population of each county, as shown by the last federal or official state census, whichever is the later, bears to the total combined population of all counties, as shown by such census; except that, each sixth, seventh, or eighth class county shall receive an aggregate amount of up to seventy-five thousand dollars if, through a procedure established in rule, the department has determined there is a demonstrated need and the share determined for such county is less than seventy-five thousand dollars. No single project in a class AA county shall be eligible for more than fifteen percent of such county's total distribution of bond proceeds.

In carrying out the purposes specified in this chapter, the department may use or permit the use of the proceeds by direct expenditures, grants, or loans to any public body, including but not limited to grants to a public body as matching funds in any case where federal, local, or other funds are made available on a matching basis for purposes specified in this chapter. [1980 c 136 § 1; 1979 ex.s. c 221 § 8.]

Appropriation—1980 c 136: "There is hereby appropriated to the department of social and health services from the 1979 handicapped facilities construction account in the general fund the sum of twenty-five million dollars for the purposes of chapter 43.99C RCW. This appropriation shall be limited by the conditions contained in section 2 of this act." [1980 c 136 § 3.] Section 2 of this act is RCW 43.99C.047.

Severability—1980 c 136: "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." [1980 c 136 § 4.]

Severability—Referral to electorate—1979 ex.s. c 221: See notes following RCW 43.99C.010.

43.99C.047 Prohibition of expenditures not submitted in budget document or schedule—Capital appropriation—Exception—Contents. (1) No expenditure of funds shall be allowed for facilities for the care, training, and rehabilitation of persons with sensory, physical, or mental handicaps which have not been submitted to the legislature in a budget document or schedule as specified in RCW 43.88.030(3), and have been approved through a capital appropriation; except that, the fiscal committees of the legislature may approve such facilities which have been, not later than December 1, 1980, verified by the department of social and health services as meeting

the assessed need of a county and being ready to proceed.

(2) In order to assure compliance with RCW 43.99C.045, such document or schedule shall indicate the population of each county, all requests submitted from each county for participation in the distribution of the bond proceeds, the requests which are proposed to be accepted, and the basis for acceptance. [1980 c 136 § 2.]

Appropriation—Severability—1980 c 136: See notes following RCW 43.99C.045.

Chapter 43.99F

WASTE DISPOSAL FACILITIES—1980 BOND ISSUE

Sections

| | |
|------------|---|
| 43.99F.010 | Declaration. |
| 43.99F.020 | General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. |
| 43.99F.030 | Deposit of proceeds in state and local improvements revolving account, Waste Disposal Facilities, 1980—Use. |
| 43.99F.040 | Administration of proceeds. |
| 43.99F.050 | Definitions. |
| 43.99F.060 | Form, terms, conditions, etc., of bonds. |
| 43.99F.070 | Anticipation notes—Payment—Pledge and promise—Seal. |
| 43.99F.080 | Retirement of bonds from waste disposal facilities bond redemption fund—Remedies of bondholders. |
| 43.99F.090 | Legislature may provide additional means for payment of bonds. |
| 43.99F.100 | Bonds legal investment for public funds. |
| 43.99F.110 | Referral to electorate. |

43.99F.010 Declaration. The long-range development goals for the state of Washington must include the protection of the resources and environment of the state, the health and safety of its people, and the beneficial uses of water by providing facilities and systems, among others, for the general control, collection, treatment, or disposal of nonradioactive solid and nonradioactive liquid waste materials. The purpose of this chapter is to assist the state and local governments in providing that protection but it is not the purpose of this chapter to provide funding for facilities which encourage development. [1980 c 159 § 1.]

43.99F.020 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. For the purpose of providing funds for the planning, design, acquisition, construction, and improvement of public waste disposal and management facilities in this state, the state finance committee is authorized to issue, at any time prior to January 1, 1990, general obligation bonds of the state of Washington in the sum of four hundred fifty million dollars, or so much thereof as may be required, to finance the improvements defined in this chapter and all costs incidental thereto. The department may not use or permit the use of any funds derived from the sale of bonds authorized by this chapter for: (1) the support of a solid waste recycling activity or service in a locale if the department determines that the activity or service is reasonably available to persons

within that locale from private enterprise; or (2) the construction of municipal wastewater facilities unless said facilities have been approved by a general purpose unit of local government in accordance with chapter 36.94 RCW, chapter 35.67 RCW, or RCW 56.08.020. These bonds shall be paid and discharged within thirty years of the date of issuance. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation of the proceeds of the bonds to be sold. [1980 c 159 § 2.]

43.99F.030 Deposit of proceeds in state and local improvements revolving account, Waste Disposal Facilities, 1980—Use. The proceeds from the sale of bonds authorized by this chapter shall be deposited in the state and local improvements revolving account, Waste Disposal Facilities, 1980 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. [1980 c 159 § 3.]

43.99F.040 Administration of proceeds. The proceeds from the sale of the bonds deposited in the state and local improvements revolving account, Waste Disposal Facilities, 1980 of the general fund under the terms of this chapter shall be administered by the state department of ecology subject to legislative appropriation. The department may use or permit the use of any funds derived from the sale of bonds authorized under this chapter to accomplish the purpose for which the bonds are issued by direct expenditures and by grants or loans to public bodies, including grants to public bodies as cost-sharing funds in any case where federal, local, or other funds are made available on a cost-sharing basis for improvements within the purposes of this chapter. The department shall ensure that funds derived from the sale of bonds authorized under this chapter do not constitute more than seventy-five percent of the total cost of any waste disposal or management facility. Not more than two percent of the proceeds of the bond issue may be used by the department of ecology in relation to the administration of the expenditures, grants, and loans.

At least one hundred fifty million dollars of the proceeds of the bonds authorized by this chapter shall be used exclusively for waste management systems capable of producing renewable energy or energy savings as a result of the management of the wastes. "Renewable energy" means, but is not limited to, the production of steam, hot water for steam heat, electricity, cogeneration, gas, or fuel through the use of wastes by incineration, refuse-derived fuel processes, pyrolysis, hydrolysis, or bioconversion, and energy savings through material recovery from waste source separation and/or recycling.

The department of ecology shall present a progress report of actual projects committed by the department to the senate committee on ways and means and the house of representatives committee on appropriations no later than November 30th of each year.

Integration of the management and operation of systems for solid waste disposal with systems of liquid waste disposal holds promise of improved waste disposal

efficiency and greater environmental protection and restoration. To encourage the planning for and development of such integration, the department may provide for special grant incentives to public bodies which plan for or operate integrated waste disposal management systems. [1980 c 159 § 4.]

43.99F.050 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Waste disposal and management facilities" means any facilities or systems owned or operated by a public body for the control, collection, storage, treatment, disposal, recycling, or recovery of nonradioactive liquid wastes or nonradioactive solid wastes, or a combination thereof, including but not limited to, sanitary sewage, storm water, residential, industrial, commercial, and agricultural wastes, and concentrations of organic sediments waste, inorganic nutrients, and toxic materials which are causing environmental degradation and loss of the beneficial use of the environment, and material segregated into recyclables and nonrecyclables. Waste disposal and management facilities may include all equipment, utilities, structures, real property, and interest in and improvements on real property necessary for or incidental to such purpose. As used in this chapter, the phrase "waste disposal and management facilities" shall not include the acquisition of equipment used to collect residential or commercial garbage.

(2) "Public body" means the state of Washington or any agency, political subdivision, taxing district, or municipal corporation thereof, an agency of the federal government, and those Indian tribes now or hereafter recognized as such by the federal government.

(3) "Control" means those measures necessary to maintain and/or restore the beneficial uses of polluted land and water resources including, but not limited to, the diversion, sedimentation, flocculation, dredge and disposal, or containment or treatment of nutrients, organic waste, and toxic material to restore the beneficial use of the state's land and water resources and prevent the continued pollution of these resources.

(4) "Planning" means the development of comprehensive plans for the purpose of identifying state-wide or regional needs for specific waste disposal facilities as well as the development of plans specific to a particular project.

(5) "Department" means the department of ecology. [1980 c 159 § 5.]

43.99F.060 Form, terms, conditions, etc., of bonds. 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. [1980 c 159 § 6.]

43.99F.070 Anticipation notes—Payment—Pledge and promise—Seal. When the state finance committee has decided to issue the bonds, or a portion

thereof, it may, pending the issuing of the bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "anticipation notes." Such portion of the proceeds of the sale of the bonds as may be required for this purpose shall be applied to the payment of the principal of and interest on any of these 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. [1980 c 159 § 7.]

43.99F.080 Retirement of bonds from waste disposal facilities bond redemption fund—Remedies of bondholders. The waste disposal facilities bond redemption fund shall be used for the purpose of the payment of the principal of and redemption premium, if any, and interest on the bonds and the bond anticipation notes authorized to be issued under this chapter.

The state finance committee, on or before June 30 of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and interest coming due on the 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 waste disposal facilities bond redemption fund an amount equal to the amount certified by the state finance committee to be due on the 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 in this chapter. [1980 c 159 § 8.]

43.99F.090 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal and interest of the bonds authorized in this chapter, and this chapter shall not be deemed to provide an exclusive method for such payment. [1980 c 159 § 9.]

43.99F.100 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. [1980 c 159 § 10.]

43.99F.110 Referral to electorate. This act shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1980, in accordance with the provisions of Article VIII, section 3, of the Constitution of the state of Washington, and in accordance with the provisions of Article II, section 1, of the Constitution of the state of Washington, as amended, and the laws

adopted to facilitate the operation thereof. [1980 c 159 § 12.]

Chapter 43.126 GEOGRAPHIC NAMES

Sections

43.126.030 State board on geographic names—Powers and duties. (Effective July 1, 1981.)

Reviser's note—Sunset Act application: The state board on geographic names is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.171. RCW 43.126.010 through 43.126.080 are scheduled for future repeal under RCW 43.131.172.

43.126.030 State board on geographic names—Powers and duties. (Effective July 1, 1981.) It shall be the duty of the Washington state board on geographic names and it shall have the power and authority to:

(1) Establish the official names for the lakes, mountains, streams, places, towns, and other geographic features within the state and the spellings thereof except when a name is specified by law. For the purposes of this subsection geographic features do not include manmade features or administrative areas such as parks, game reserves, and dams, but shall include manmade lakes;

(2) Assign names to lakes, mountains, streams, places, towns, and other geographic features in the state for which no single generally accepted name has been in use;

(3) Cooperate with county commissioners, state departments and agencies and with the United States board on geographic names to establish, change and/or determine the appropriate names of the lakes, mountains, streams, places, towns, and other geographic features; and for the purpose of eliminating, so far as possible, duplication of place names within the state;

(4) Serve as a state of Washington liaison with the United States board on geographic names;

(5) Issue periodically a list of names approved by the board. [1980 c 78 § 130; 1973 1st ex.s. c 178 § 3.]

Sunset Act application: See note following chapter digest.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Chapter 43.131 WASHINGTON SUNSET ACT OF 1977

Sections

43.131.240 Washington State Public Broadcasting Commission—Termination—Limitation.

43.131.240 Washington State Public Broadcasting Commission—Termination—Limitation. The Washington State Public Broadcasting Commission and its powers and duties shall terminate on June 30, 1983, and shall be subject to all of the processes provided in RCW 43.131.010 through 43.131.110 as now existing or hereafter amended. [1980 c 123 § 14.]

Washington State Public Broadcasting Commission: Chapter 28A.91 RCW.

[1980 RCW Supp—page 134]

Chapter 43.135 TAX REVENUE LIMITATIONS

Sections

| | |
|------------|---|
| 43.135.010 | Findings—Intent. |
| 43.135.020 | Definitions. |
| 43.135.030 | State tax revenue limit. |
| 43.135.040 | Taxes, fees, charges to be set—Estimated revenue to be within revenue limit. |
| 43.135.050 | When revenue limit may be exceeded—Conditions. |
| 43.135.060 | Prohibition of new or extended programs without reimbursement—Prohibition on decreasing proportion of state tax revenue consisting of appropriations to taxing districts—Transfer of programs—Determination of costs. |
| 43.135.070 | Priority of principal and interest on state indebtedness—Revenue collected in excess of limit. |
| 43.135.900 | Severability—1980 c 1. |
| 43.135.901 | Effective date—Applicability—1980 c 1. |

43.135.010 Findings—Intent. The people of the state of Washington hereby find and declare:

(1) The continuing increases in our state tax burden and the corresponding growth of state government is contrary to the interest of the people of the state of Washington.

(2) It is necessary to limit the rate of growth of state government while assuring adequate funding of essential services, including basic education as defined by the legislature.

(3) It is therefore the intent of this chapter to:

(a) Establish a limit which will assure that the growth rate of state tax revenue does not exceed the growth rate of state personal income;

(b) Assure that local governments are provided funds adequate to render those services deemed essential by their citizens;

(c) Assure that the state does not impose, on any taxing district, responsibility for new programs or increased levels of service under existing programs unless the costs thereof are paid by the state;

(d) Provide for adjustment of the limit when costs of a program are transferred between the state and another political entity; and

(e) Establish a procedure for exceeding this limit in emergency situations. [1980 c 1 § 1 (Initiative Measure No. 62, approved November 6, 1979).]

43.135.020 Definitions. As used in this chapter, the following terms have the meanings indicated unless otherwise required.

(1) "State tax revenue" means all state moneys received in the treasury from every source except those revenues excluded for the term "general state revenues" by Article VIII, section (1)(c) of the state Constitution other than the state property tax levied for the support of the common schools under RCW 84.52.065, as now or hereafter amended.

(2) "State personal income" means the dollar amount published as total personal income of persons of the state for the calendar year by the United States department of commerce or its successor agency.

(3) "State tax revenue limit" or "limit" means the state tax revenue limit created by this chapter.

(4) "Taxing district" means those districts included within the term "taxing district" under RCW 84.04.120, as now or hereafter amended.

(5) "State personal income ratio" for any calendar year means the quotient formed by dividing (a) state personal income for the calendar year under consideration by (b) the state personal income for the immediately preceding calendar year. [1980 c 1 § 2 (Initiative Measure No. 62, approved November 6, 1979).]

43.135.030 State tax revenue limit. (1) The state tax revenue limit for any fiscal year shall be the previous fiscal year's state tax revenue limit multiplied by the average state personal income ratio for the three calendar years immediately preceding the beginning of the fiscal year for which the limit is being computed.

(2) For purposes of computing the state tax revenue limit for the fiscal year beginning July 1, 1980, the phrase "the previous fiscal year's state tax revenue limit" means the state tax revenue collected in the fiscal year beginning July 1, 1978, multiplied by the average state personal income ratio for the calendar years 1976, 1977, and 1978. [1980 c 1 § 3 (Initiative Measure No. 62, approved November 6, 1979).]

43.135.040 Taxes, fees, charges to be set—Estimated revenue to be within revenue limit. Except as provided in RCW 43.135.050, taxes, fees, and charges on persons, property, and activities shall be imposed, levied, or set by the legislature in such a manner that the estimated state tax revenue for each fiscal year of the next biennium will not exceed the state tax revenue limit for that fiscal year: *Provided*, The legislature may at any time adjust such taxes, fees, and charges for the second fiscal year of the biennium. [1980 c 1 § 4 (Initiative Measure No. 62, approved November 6, 1979).]

43.135.050 When revenue limit may be exceeded—Conditions. (1) The state tax revenue limit for any fiscal year may be exceeded in order to meet an emergency as declared by the legislature by two-thirds vote of each house. The legislature, by two-thirds vote of each house, shall set forth the circumstances constituting the emergency and the amount of state tax revenue in excess of the applicable state tax revenue limit necessary to meet the emergency.

(2) Any amount of state tax revenue authorized by subsection (1) of this section in excess of the state tax revenue limit shall be authorized only for the fiscal year in which the vote is taken and/or the next succeeding fiscal year, as directed by the legislature.

(3) Except where the emergency results from a court order, the amount of state tax revenue authorized under subsection (1) of this section in excess of the limit shall not be used in the revenue base used to compute the state tax revenue limit for subsequent years. [1980 c 1 § 5 (Initiative Measure No. 62, approved November 6, 1979).]

43.135.060 Prohibition of new or extended programs without reimbursement—Prohibition on decreasing

proportion of state tax revenue consisting of appropriations to taxing districts—Transfer of programs—Determination of costs. (1) The legislature shall not impose responsibility for new programs or increased levels of service under existing programs on any taxing district unless the districts are reimbursed for the costs thereof by the state.

(2) That proportion of state tax revenue which consists of direct state appropriations to taxing districts taken as a group shall not be decreased below that proportion appropriated in the biennium immediately preceding January 1, 1980: *Provided*, This proportion shall be decreased in any fiscal year only if: (a) The legislature decreases the state tax revenue limit for that fiscal year by an amount equal to the dollar amount of any decrease in direct state appropriations to taxing districts taken as a whole; or (b) the state tax revenue limit has been increased under RCW 43.135.050(3) or 43.135.060(3) and the decrease of the proportion is commensurate with the increase in the state tax revenue limit.

(3) If by order of any court, or legislative enactment, the costs of a federal or taxing district program are transferred to or from the state, the otherwise applicable state tax revenue limit shall be increased or decreased, as the case may be, by the dollar amount of the costs of the program.

(4) The legislature, in consultation with the office of financial management or its successor agency, shall determine the costs of any new programs or increased levels of service under existing programs imposed on any taxing district or transferred to or from the state. [1980 c 1 § 6 (Initiative Measure No. 62, approved November 6, 1979).]

43.135.070 Priority of principal and interest on state indebtedness—Revenue collected in excess of limit. The legislature shall, prior to any other appropriation, provide for the payment of the principal and interest of the indebtedness of the state. State tax revenue collected in any fiscal year in excess of the state tax revenue limit for that fiscal year shall be included as part of the state tax revenue for the succeeding fiscal year. [1980 c 1 § 7 (Initiative Measure No. 62, approved November 6, 1979).]

43.135.900 Severability—1980 c 1. 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. [1980 c 1 § 8 (Initiative Measure No. 62, approved November 6, 1979).]

43.135.901 Effective date—Applicability—1980 c 1. This act shall take effect on January 1, 1980: *Provided*, That the first fiscal year for which the state tax revenue limit shall be in effect is the fiscal year beginning on July 1, 1980. [1980 c 1 § 9 (Initiative Measure No. 62, approved November 6, 1979).]

Title 44

STATE GOVERNMENT—LEGISLATIVE

Chapters

- 44.04 General provisions.
- 44.24 Legislative council.
- 44.28 Legislative budget committee.
- 44.30 Joint committee on higher education.
- 44.33 Joint committee on education.
- 44.36 Joint committee on urban area government.
- 44.39 Joint committee on energy and utilities.
- 44.40 Legislative transportation committee—Senate and house transportation committees.
- 44.42 Joint legislative arts committee.
- 44.48 Legislative evaluation and accountability program committee.
- 44.60 Legislative ethics.

Legislature, workers' compensation, joint committee: See note following RCW 51.04.110.

Reports to legislature

career executive program, performance audit: RCW 41.06.440.

workers' compensation comprehensive plan: See note following chapter 51.04 RCW digest.

workers' compensation joint committee: See note following RCW 51.04.110.

Taxation, limitations on state revenues: Chapter 43.135 RCW.

Chapter 44.04

GENERAL PROVISIONS

Sections

- 44.04.010 Date of regular sessions.
- 44.04.200 References to regular session of the legislature.

44.04.010 Date of regular sessions. Regular sessions of the legislature shall be held annually, commencing on the second Monday of January. [1980 c 87 § 27; 1979 ex.s. c 48 § 1; 1891 c 20 § 1; RRS § 8177.]

Effective date—1979 ex.s. c 48: "This 1979 act shall take effect on January 1, 1980, if the proposed amendment to Article II, section 12 of the state Constitution by Substitute Senate Joint Resolution No. 110, providing for annual sessions of the legislature, is validly submitted and is approved and ratified by the voters at a general election held in November, 1979. If the proposed amendment is not so approved and ratified, this 1979 act shall be null and void in its entirety." [1979 ex.s. c 48 § 2.] "This 1979 act" refers to the amendment to RCW 44.04.010 by 1979 ex.s. c 48. Substitute Senate Joint Resolution No. 110 was approved and ratified by the people at the November 6, 1979 general election.

Regular and special sessions: State Constitution Art. 2 § 12.

44.04.200 References to regular session of the legislature. After June 12, 1980, all references in the Revised Code of Washington to a regular session of the legislature mean a regular session during an odd- or even-numbered year unless the context clearly requires otherwise. [1980 c 87 § 1.]

Chapter 44.24
LEGISLATIVE COUNCIL

Sections

- 44.24.010 Council created—Composition.
- 44.24.020 Powers and duties.

44.24.010 Council created—Composition. There is hereby created a "state legislative council" hereinafter referred to as the council, which shall consist of fifteen senators and sixteen representatives from the legislature of the state of Washington, including the president pro tem of the senate and the speaker of the house of representatives, said council to be appointed by the president of the senate and the speaker of the house of representatives at least ten days before the close of the 1947 session of the legislature, and before the close of each regular session during an odd-numbered year thereafter: *Provided*, That if prior to the close of any regular session during an odd-numbered year, the governor shall issue a proclamation convening the legislature into special session, or the legislature shall by resolution convene the legislature into special session, following such regular session, then such appointments shall be made as a matter of closing business of such special session. The president of the senate and the speaker of the house of representatives shall prepare their lists of appointees so that the whole membership of the council shall include at least one individual from each United States congressional district within the state and so that the minority political party in each house shall have seven members on the council. The said lists of appointees shall be subject to confirmation as to the senate members by the senate and as to the house members by the house of representatives. In the event of a failure to appoint council members within the time above stated, or in the event of a refusal by either senate or house of representatives to confirm appointments on the council, then the members on the council from either house in which there is a failure to appoint or confirm shall be elected forthwith by the members of such house. [1980 c 87 § 28; 1969 c 10 § 1; 1967 ex.s. c 134 § 6; 1965 ex.s. c 148 § 1; 1947 c 36 § 1; Rem. Supp. 1947 § 8207-1.]

44.24.020 Powers and duties. The council shall have the following powers and duties:

(1) To perform, either through the council as a whole or through committees thereof all duties and functions customarily delegated to special interim legislative committees: *Provided*, That any appointments of committee chairmen shall be approved by not less than fifteen members of the council;

(2) To examine and study the administrative organization and procedures of the state government, its offices, boards, committees, commissions, institutions, and other state agencies and to make recommendations, where found advisable, directed to the elimination of unnecessary overlapping or duplication of functions, procedures and expenditures, and to the promotion of economy and efficiency in state government;

(3) To make such other studies and examinations of the state government and its state agencies as it may find advisable and to hear complaints, hold hearings, gather information and make findings of fact with respect thereto: *Provided*, That no investigation shall be had or public hearing be held without prior approval of two-thirds of the membership of the council: *Provided further*, That any investigation or hearing once commenced may be terminated by a majority vote of the council;

(4) To receive messages and reports in person or in writing from the governor or any other state officials and to attend generally to any and all business addressed to or affecting the legislature during the interim between regular legislative sessions;

(5) To make reports from time to time to the members of the legislature and to the public with respect to any of its findings or recommendations. The council shall keep complete minutes of its meetings. The council shall make and distribute its biennial report to the members of the ensuing legislature at least ten days prior to the convening of the legislature in regular session during an odd-numbered year; and

(6) To cooperate, act, and function with similar councils or committees of other states, with the council of state governments, and with other interstate research organizations. [1980 c 87 § 29; 1967 ex.s. c 134 § 1; 1955 c 206 § 1; 1947 c 36 § 2; Rem. Supp. 1947 § 8207-2.]

Chapter 44.28

LEGISLATIVE BUDGET COMMITTEE

Sections

- 44.28.010 Legislative budget committee created—Members.
- 44.28.020 Terms of members—Vacancies.

44.28.010 Legislative budget committee created—Members. There is hereby created a legislative budget committee which shall consist of eight senators and eight 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 four members from each house shall be from the same political party. All members shall be appointed before the close of the 1967 session of the legislature and before the close of each regular session during an odd-numbered year thereafter: *Provided*, That if prior to the close of each regular session during an odd-numbered year, the governor shall issue a proclamation convening the legislature into special session, or the legislature shall by resolution convene the legislature into special session, following such regular session, then such appointments shall be made as a matter of closing business of such special session. Members shall be subject to confirmation, as to the senate members by the senate, and as to the house members by the house. In the event of a failure to appoint committee members, either on the part of the president of the senate or on the part of the speaker of the house, or in the event of a refusal by either the senate or the house to confirm appointments on

the committee, then the members of the committee from either house in which there is a failure to appoint or confirm shall be elected forthwith by the members of such house. [1980 c 87 § 30; 1969 c 10 § 4; 1967 ex.s. c 114 § 1; 1963 ex.s. c 20 § 1; 1955 c 206 § 4; 1951 c 43 § 1.]

44.28.020 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 44.28.010 until the close of the next regular session during an odd-numbered year or special session following such regular session, or, in the event that such appointments or elections are not made, until the close of the next regular session during an odd-numbered year 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 during an odd-numbered year 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. [1980 c 87 § 31; 1969 c 10 § 5; 1955 c 206 § 5; 1951 c 43 § 12.]

Chapter 44.30

JOINT COMMITTEE ON HIGHER EDUCATION

Sections

- 44.30.020 Composition—Selection and confirmation of members.
- 44.30.030 Terms.

44.30.020 Composition—Selection and confirmation of members.

The committee shall consist of five senators and five representatives who shall be selected prior to the close of the forty-first session of the legislature, and at least ten days before the close of each regular session during an odd-numbered year thereafter as follows:

- (1) The president of the senate shall nominate five senators 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 five members of the house of representatives to serve on the committee, and submit the list of nominees to the house for confirmation. Upon confirmation, the representatives shall be deemed installed as members.

In the event of a failure to appoint members within the time above stated, or in the event of a refusal to confirm, the members on the committee from either house in which there is a failure to appoint or confirm shall be elected forthwith by the members of such house. [1980 c 87 § 32; 1969 ex.s. c 265 § 3.]

44.30.030 Terms. Members shall serve until their successors are installed as provided in RCW 44.30.020 at the next succeeding regular session of the legislature during an odd-numbered year, or until they are no longer members of the legislature, whichever is sooner. [1980 c 87 § 33; 1969 ex.s. c 265 § 5.]

Chapter 44.33

JOINT COMMITTEE ON EDUCATION

| | |
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| Sections | |
| 44.33.220 | Composition—Selection and confirmation of members. |
| 44.33.240 | Term. |

44.33.220 Composition—Selection and confirmation of members. The committee shall consist of five senators and five representatives who shall be selected prior to the close of the thirty-ninth session of the legislature, and before the close of each regular session during an odd-numbered year thereafter as follows: *Provided*, That if prior to the close of each regular session during an odd-numbered year, the governor shall issue a proclamation convening the legislature into special session, or the legislature shall by resolution convene the legislature into special session, following such regular session, then such selections shall be made as a matter of closing business of such special session.

(1) The president of the senate shall nominate five senators 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 five members of the house of representatives to serve on the committee, and submit the list of nominees to the house for confirmation. Upon confirmation, the representatives shall be deemed installed as members.

In the event of a failure to appoint members within the time above stated, or in the event of a refusal to confirm, then the members on the committee from either house in which there is a failure to appoint or confirm shall be elected forthwith by the members of such house. [1980 c 87 § 34; 1969 c 10 § 3; 1965 ex.s. c 130 § 3. Prior: 1963 ex.s. c 19 § 3; RCW 44.33.030; prior: 1961 c 296 § 3; 1959 c 299 § 3; RCW 44.32.030.]

44.33.240 Term. Members shall serve until their successors are installed as provided in RCW 44.33.220 at the next succeeding regular session of the legislature during an odd-numbered year, or until they are no longer members of the legislature, whichever is sooner or at the special session, if any, following the said next succeeding regular session during an odd-numbered year. [1980 c 87 § 35; 1969 c 10 § 6; 1965 ex.s. c 130 § 5. Prior: 1963 ex.s. c 19 § 5; RCW 44.33.050; prior: 1961 c 296 § 5; 1959 c 299 § 5; RCW 44.32.050.]

Chapter 44.36

JOINT COMMITTEE ON URBAN AREA GOVERNMENT

| | |
|-----------|--------------------------------------|
| Sections | |
| 44.36.030 | Composition, appointment of members. |
| 44.36.050 | Term. |

44.36.030 Composition, appointment of members. The committee shall consist of five senators and five representatives who shall be selected as follows:

(1) The president of the senate shall nominate five senators to serve on the committee, who shall be residents of urban areas of the state, and shall submit the list of nominees to the senate for confirmation. In the event that the president does not nominate five senators, or in the event that the senate does not confirm the nominees prior to two days before the close of the regular session of the legislature during an odd-numbered year, the senate shall elect the members by a majority vote of a quorum. Upon confirmation or election, the senators shall be installed as members.

(2) The speaker of the house shall nominate five representatives to serve on the committee, who shall be residents of urban areas of the state, and submit the list of nominees to the house for confirmation. In the event that the speaker does not nominate five representatives, or in the event that the house does not confirm the nominees prior to two days before the close of the regular session of the legislature during an odd-numbered year, the house shall elect the members by a majority vote. Upon confirmation or election, the representatives shall be deemed installed as members. [1980 c 87 § 36; 1961 c 308 § 3.]

44.36.050 Term. Members shall serve until their successors are installed as provided in RCW 44.36.030, at the next succeeding regular session of the legislature during an odd-numbered year, or until they are no longer members of the legislature, whichever is sooner. [1980 c 87 § 37; 1961 c 308 § 5.]

Chapter 44.39

JOINT COMMITTEE ON ENERGY AND UTILITIES (Formerly: Joint committee on nuclear energy)

| | |
|-----------|--------|
| Sections | |
| 44.39.020 | Terms. |

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 during an odd-numbered year, or until they are no longer members of the legislature, whichever is sooner. [1980 c 87 § 38; 1977 ex.s. c 328 § 15; 1969 ex.s. c 260 § 3.]

Severability—1977 ex.s. c 328: See note following RCW 43.21G.010.

Chapter 44.40
LEGISLATIVE TRANSPORTATION
COMMITTEE—SENATE AND HOUSE
TRANSPORTATION COMMITTEES

Sections
 44.40.010 Creation—Composition—Appointments—
 Vacancies.

44.40.010 Creation—Composition—Appointments—Vacancies. The joint fact-finding committee on highways, streets, and bridges originally created by chapter 111, Laws of 1947, recreated and renamed the joint committee on highways by chapter 3, Laws of 1963 extraordinary session, is hereby recreated and renamed the legislative transportation committee. The renaming of said committee shall not affect any powers invested in it or its duties imposed upon it by any other statute. All appropriations made to the committee under its former name shall continue to be available to said committee as renamed, the legislative transportation committee. The committee shall consist of eleven senators to be appointed by the president of the senate and twelve members of the house of representatives to be appointed by the speaker thereof. A list of appointees shall be submitted before the close of each regular legislative session during an odd-numbered year or any successive special session convened by the governor or the legislature prior to the close of such regular session or successive special session(s) for confirmation of senate members, by the senate, and house members, by the house. Vacancies occurring shall be filled by the appointing authority. [1980 c 87 § 39; 1971 ex.s. c 195 § 1; 1967 ex.s. c 145 § 68; 1965 ex.s. c 170 § 64; 1963 ex.s. c 3 § 35.]

Severability—1971 ex.s. c 195: "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 circumstances is not affected." [1971 ex.s. c 195 § 21.] This applies to RCW 43.59.130, 44.40.010, 44.40.025, 44.40.026, 44.40.030, 44.40.040, 44.40.060, 47.01.145, 47.01.240 and 47.60.045.

Chapter 44.42
JOINT LEGISLATIVE ARTS COMMITTEE

Sections
 44.42.010 Purpose.
 44.42.020 "Person" defined.
 44.42.030 Joint legislative arts committee created—Membership—Rules.
 44.42.040 Capitol arts fund established—Use—Moneys—Report.
 44.42.050 Powers and duties—Support and assistance.
 44.42.900 Expiration of chapter.

44.42.010 Purpose. The architectural plan for the state legislative building included spaces for works of art which have never been used as originally intended. The purpose of this chapter is to facilitate the creation, acquisition, and installation of appropriate works of art for the legislative building by providing a joint legislative arts committee with overall authority and responsibility to establish and implement an arts acquisition plan, and

by creating a special fund to assist in the financing of the art acquisitions. [1980 c 173 § 1.]

44.42.020 "Person" defined. As used in this chapter, "person" means any individual or public or private corporation. [1980 c 173 § 2.]

44.42.030 Joint legislative arts committee created—Membership—Rules. There is created a joint legislative arts committee consisting of four members of the senate, to be appointed by the president of the senate, and four members from the house, to be appointed by the speaker of the house. Not more than two members from each house may be from the same political party. All appointments to the committee are subject to approval by the caucuses to which the appointed members belong.

Members shall be subject to reappointment at the beginning of each session of the legislature which convenes in an even-numbered year. No member shall serve on the committee unless he or she retains membership in the legislature. Vacancies shall be filled by the same appointing authority and in the same manner as for the member whose seat is vacated.

The president of the senate shall appoint the chairperson in even-numbered years, and the speaker of the house shall appoint the chairperson in odd-numbered years.

Five members of the committee constitute a quorum for the transaction of business. The committee may adopt rules to govern the conduct of its business.

Members are entitled to allowances provided for in RCW 44.04.120, as now existing or hereafter amended, for attendance at meetings or other official business of the committee during the interim. [1980 c 173 § 3.]

44.42.040 Capitol arts fund established—Use—Moneys—Report. (1) There is established a special fund in the state treasury to be known as the capitol arts fund, which shall be used to help finance the creation, acquisition, and installation of works of art for the state legislative building in accordance with the provisions of RCW 44.42.050. Under the direction of the joint legislative arts committee, the state treasurer may receive moneys for this fund, including gifts, grants, donations, and bequests, from any person or persons interested in making a contribution or contributions for this purpose. The legislative arts committee may refuse to accept such contributions. The committee may accept or reject any donations of art objects or other personal property. Such objects, and other property if appropriate, shall be held in the custody of the state capitol historical museum. Donations of real property may be accepted or rejected by the committee. At the request of the committee, the department of general administration shall manage or sell any real property donated for the purposes of this chapter. Proceeds from the sale or management of real property shall be deposited in the capitol arts fund, except that expenses of the department shall be reimbursed from the proceeds. No moneys may be expended from

the fund without the approval of the joint legislative arts committee.

(3) The state treasurer shall report to the legislature no later than January 31st of each even-numbered year the status of funds and the expenditures for works of art during the previous two-year period.

(4) Any moneys remaining in the capitol arts fund after the works of art have been installed may be used in any way that the joint legislative arts committee and legislature deem appropriate to enhance the appearance of the legislative building and the state's art collection. [1980 c 173 § 4.]

Reviser's note: Subsection (2) of this section was vetoed by the governor. See veto message at end of 1980 c 173 in the 1980 session laws.

44.42.050 Powers and duties—Support and assistance. (1) The joint legislative arts committee shall have the following powers and duties:

(a) To do all things necessary to acquire works of art for the legislative building;

(b) To prepare a comprehensive plan for the acquisition of works of art for the legislative building, and submit the plan for review by the legislature on or before the commencement of the 1981 regular session;

(c) To contract for the services of a jury of professionals in the arts to be selected by the committee. The jury of professionals shall consist of persons of impeccable stature and qualifications and represent the various appropriate art media. The jury of professionals shall make recommendations to the committee regarding matters relating to the selection of works of art.

(2) At the request of the joint legislative arts committee, the Washington state arts commission, the department of general administration, the state capitol historical museum, and other agencies of the state shall provide support and assistance to the committee necessary to carry out the provisions of this chapter. [1980 c 173 § 5.]

44.42.900 Expiration of chapter. This chapter shall expire and be of no further effect on January 1, 1990. [1980 c 173 § 6.]

Chapter 44.48

LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM COMMITTEE

Sections

| | |
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| 44.48.010 | Legislative evaluation and accountability program committee created—Composition. |
| 44.48.020 | Terms of members—Vacancies. |
| 44.48.030 | Continuation of memberships, powers, duties, etc. |

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 during an odd-numbered year thereafter. Members shall be subject to confirmation, as to the senate members by the senate, and as to the house members by the house. [1980 c 87 § 40; 1977 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 during an odd-numbered year, or, in the event that such appointments or elections are not made, until the close of the next regular session during an odd-numbered year 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 during an odd-numbered year 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. [1980 c 87 § 41; 1977 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 during an odd-numbered year, 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. [1980 c 87 § 42; 1977 ex.s. c 373 § 3.]

Chapter 44.60

LEGISLATIVE ETHICS

Sections

| | |
|-----------|---|
| 44.60.020 | Boards of legislative ethics—Appointment of members—Terms—Vacancies—Quorum. |
| 44.60.070 | Joint board, powers, duties, and functions—Code of ethics. |
| 44.60.110 | Powers, duties, and functions of boards. |

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 during an odd-numbered year shall adjourn sine die: *Provided*, That if prior to such adjournment sine die, the governor or the legislature shall have convened a special session of the legislature, the appointments shall not be made until the day on which such special 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. [1980 c 87 § 43; 1977 ex.s. c 218 § 2; 1967 ex.s. c 150 § 2.]

Severability—1977 ex.s. c 218: See note following RCW 44.60.010.

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 and shall continue in effect except to the extent revised by subsequent joint rules.

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. [1980 c 165 § 1; 1977 ex.s. c 218 § 5; 1967 ex.s. c 150 § 6.]

Severability—1977 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, it shall include in its decision a specific recommendation for disciplinary action which may include but is not necessarily limited to: (i) In the case of a legislator, reprimand, censure, or expulsion, and when applicable, restitution; and (ii) in the case of a legislative employee, reprimand, suspension, or dismissal, and when applicable, restitution. 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. [1980 c 165 § 2; 1977 ex.s. c 218 § 8.]

Severability—1977 ex.s. c 218: See note following RCW 44.60.010.

Title 46 MOTOR VEHICLES

Chapters

- 46.01** Department of licensing.
- 46.08** General provisions.
- 46.09** Off-road and nonhighway vehicles.
- 46.10** Snowmobiles.
- 46.12** Certificates of ownership and registration.
- 46.16** Vehicle licenses.
- 46.20** Drivers' licenses—Identical cards.
- 46.29** Financial responsibility.
- 46.32** Vehicle inspection.
- 46.37** Vehicle lighting and other equipment.
- 46.44** Size, weight, load.
- 46.48** Safety.
- 46.52** Accidents—Reports—Abandoned vehicles.
- 46.61** Rules of the road.
- 46.63** Disposition of traffic infractions.
- 46.64** Enforcement.
- 46.65** Washington habitual traffic offenders act.
- 46.68** Disposition of revenue.
- 46.76** Motor vehicle transporters.

- 46.81 Traffic safety education courses.
- 46.83 Traffic schools.
- 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

- 46.01.140 County auditors, others, as agents of director—Disposition of application fees.
- 46.01.230 Payment of licenses, certificates, taxes, and fees by check or money order authorized—Regulations—Penalty for nonsurrender upon cancellation. (Effective until January 1, 1981.)
- 46.01.230 Payment of licenses, certificates, taxes, and fees by check or money order authorized—Regulations—Penalty for nonsurrender upon cancellation. (Effective January 1, 1981.)

46.01.140 County auditors, others, as agents of director—Disposition of application fees. The county auditor, if appointed by the director of licensing shall carry out the provisions of this title relating to the licensing of vehicles and the issuance of vehicle license number plates under the direction and supervision of the director and may with the approval of the director appoint assistants as special deputies to accept applications and collect fees for vehicle licenses and transfers and to deliver vehicle license number plates.

At any time any application is made to the director, the county auditor, or other agent pursuant to any law dealing with licenses, certificates of ownership, registration, or the right to operate any vehicle upon the public highways of this state, the applicant shall pay to the director, county auditor, or other agent a fee of one dollar for each application in addition to any other fees required by law, which fee of one dollar, if paid to the county auditor as agent of the director, or if paid to an agent of the county auditor, shall be paid to the county treasurer in the same manner as other fees collected by the county auditor and credited to the county current expense fund. In the event that such fee is paid to another agent of the director, such fee shall be used by such agent to defray his expenses in handling the application: *Provided*, That an agent of the county auditor is entitled to an additional service charge of one dollar and fifty cents: *Provided further*, That in the event such fee is collected by the state patrol, as agent for the director, the fee so collected shall be certified to the state treasurer and deposited to the credit of the motor vehicle fund. All such filing fees collected by the director or branches of his office shall be certified to the state treasurer and deposited to the credit of the highway safety fund. [1980 c 114 § 2; 1979 c 158 § 122; 1975 1st ex.s. c 146 § 1; 1973 c 103 § 1; 1971 ex.s. c 231 § 9; 1971 ex.s. c 91 § 3; 1965 c 156 § 14; 1963 c 85 § 1; 1961 c 12 § 46.08.100. Prior: 1955 c 89 § 3; 1937 c 188 § 27; RRS § 6312-27. Formerly RCW 46.08.100.]

Effective date—1971 ex.s. c 231: See note following RCW 46.01.130.

46.01.230 Payment of licenses, certificates, taxes, and fees by check or money order authorized—Regulations—Penalty for nonsurrender upon cancellation. (Effective until January 1, 1981.) (1) The department of licensing is authorized to accept checks and money orders for payment of drivers' licenses, certificates of ownership and registration, motor vehicle excise taxes, gross weight fees and other fees and taxes collected by the department, in accordance with regulations adopted by the director. The director's regulations shall duly provide for the public's convenience consistent with sound business practice and shall encourage the annual renewal of vehicle registrations by mail to the department, authorizing checks and money orders for payment. Such regulations shall contain provisions for cancellation of any registrations, licenses or permits paid for by checks or money orders which are not duly paid and for the necessary accounting procedures in such cases: *Provided*, That any bona fide purchaser for value of a vehicle shall not be liable or responsible for any prior uncollected taxes and fees paid, pursuant to this section, by a check which has subsequently been dishonored: *And provided further*, That no transfer of ownership of a vehicle shall be denied to a bona fide purchaser for value of a vehicle if there are outstanding uncollected fees or taxes for which a predecessor paid, pursuant to this section, by check which has subsequently been dishonored nor shall the new owner be required to pay any fee for replacement vehicle license number plates that may be required pursuant to RCW 46.16.270.

(2) Any person shall be guilty of a misdemeanor who shall fail to surrender within ten days to the department or any authorized agent of the department any certificate, license or permit after being notified by certified mail that such certificate, license or permit has been canceled pursuant to this section. [1979 c 158 § 124; 1975 c 52 § 1; 1965 ex.s. c 170 § 44.]

46.01.230 Payment of licenses, certificates, taxes, and fees by check or money order authorized—Regulations—Penalty for nonsurrender upon cancellation. (Effective January 1, 1981.) (1) The department of licensing is authorized to accept checks and money orders for payment of drivers' licenses, certificates of ownership and registration, motor vehicle excise taxes, gross weight fees, and other fees and taxes collected by the department, in accordance with regulations adopted by the director. The director's regulations shall duly provide for the public's convenience consistent with sound business practice and shall encourage the annual renewal of vehicle registrations by mail to the department, authorizing checks and money orders for payment. Such regulations shall contain provisions for cancellation of any registrations, licenses, or permits paid for by checks or money orders which are not duly paid and for the necessary accounting procedures in such cases: *Provided*, That any bona fide purchaser for value of a vehicle shall not be liable or responsible for any prior uncollected taxes and fees paid, pursuant to this section, by a check which has

subsequently been dishonored: *And provided further*, That no transfer of ownership of a vehicle may be denied to a bona fide purchaser for value of a vehicle if there are outstanding uncollected fees or taxes for which a predecessor paid, pursuant to this section, by check which has subsequently been dishonored nor shall the new owner be required to pay any fee for replacement vehicle license number plates that may be required pursuant to RCW 46.16.270 as now or hereafter amended.

(2) It is a traffic infraction to fail to surrender within ten days to the department or any authorized agent of the department any certificate, license, or permit after being notified by certified mail that such certificate, license, or permit has been canceled pursuant to this section. [1979 ex.s. c 136 § 39; 1979 c 158 § 124; 1975 c 52 § 1; 1965 ex.s. c 170 § 44.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Chapter 46.08 GENERAL PROVISIONS

| Sections | |
|-----------|--|
| 46.08.170 | Control of traffic on capitol grounds—Violations, misdemeanors—Jurisdiction. (Effective until January 1, 1981.) |
| 46.08.170 | Control of traffic on capitol grounds—Violations, traffic infractions, misdemeanors—Jurisdiction. (Effective January 1, 1981.) |

46.08.170 Control of traffic on capitol grounds—Violations, misdemeanors—Jurisdiction. (Effective until January 1, 1981.) Any violation of a rule or regulation prescribed under RCW 46.08.150 shall be punishable as a misdemeanor, and the courts of justices of the peace in Thurston county shall have jurisdiction over such offenses. [1963 c 158 § 2; 1961 c 12 § 46.08.170. Prior: 1947 c 11 § 3; Rem. Supp. 1947 § 7921–22.]

46.08.170 Control of traffic on capitol grounds—Violations, traffic infractions, misdemeanors—Jurisdiction. (Effective January 1, 1981.) Any violation of a rule or regulation prescribed under RCW 46.08.150 is a traffic infraction, and the courts of justices of the peace in Thurston county shall have jurisdiction over such offenses: *Provided*, That violation of a rule or regulation relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of a rule or regulation equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor. [1979 ex.s. c 136 § 40; 1963 c 158 § 2; 1961 c 12 § 46.08.170. Prior: 1947 c 11 § 3; Rem. Supp. 1947 § 7921–22.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Chapter 46.09

OFF-ROAD AND NONHIGHWAY VEHICLES (Formerly: All-terrain vehicles)

| Sections | |
|-----------|---|
| 46.09.120 | Operating violations. (Effective until January 1, 1981.) |
| 46.09.120 | Operating violations. (Effective January 1, 1981.) |
| 46.09.190 | General penalty—Civil liability. (Effective until January 1, 1981.) |
| 46.09.190 | General penalty—Civil liability. (Effective January 1, 1981.) |

46.09.120 Operating violations. (Effective until January 1, 1981.) 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 ex.s. c 220 § 10; 1972 ex.s. c 153 § 12; 1971 ex.s. c 47 § 17.]

46.09.120 Operating violations. (Effective January 1, 1981.) (1) It is a traffic infraction for any person to operate any nonhighway vehicle:

(a) In such a manner as to endanger the property of another;

(b) 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;

(c) 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;

(d) Without a spark arrester approved by the department of natural resources;

(e) 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:

(i) At a forty-five degree angle at a distance of twenty inches from the exhaust outlet;

(ii) 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

(iii) 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;

(f) 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;

(g) 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;

(h) 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

(i) On any public lands in violation of rules and regulations of the agency administering such lands.

(2) It is a misdemeanor for any person to operate any nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance. [1979 ex.s. c 136 § 41; 1977 ex.s. c 220 § 10; 1972 ex.s. c 153 § 12; 1971 ex.s. c 47 § 17.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Purpose—1972 ex.s. c 153: See RCW 67.32.080.

46.09.190 General penalty—Civil liability. (Effective until January 1, 1981.) (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 ex.s. c 220 § 16; 1972 ex.s. c 153 § 16; 1971 ex.s. c 47 § 24.]

46.09.190 General penalty—Civil liability. (Effective January 1, 1981.) (1) Except as provided in RCW 46.09.120(2) and 46.09.130 as now or hereafter amended, violation of the provisions of this chapter is a traffic infraction for which a penalty of not less than twenty-five dollars may be imposed.

(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, or 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. [1979 ex.s. c 136 § 42; 1977 ex.s. c 220 § 16; 1972 ex.s. c 153 § 16; 1971 ex.s. c 47 § 24.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Purpose—1972 ex.s. c 153: See RCW 67.32.080.

Chapter 46.10 SNOWMOBILES

| Sections | |
|-----------|--|
| 46.10.090 | Operating violations. (Effective until January 1, 1981.) |
| 46.10.090 | Operating violations. (Effective January 1, 1981.) |
| 46.10.190 | General penalty—Disposition of fines and forfeitures—Civil liability. (Effective until January 1, 1981.) |
| 46.10.190 | General penalty—Civil liability. (Effective January 1, 1981.) |

46.10.200 Enforcement. (Effective July 1, 1981.)

46.10.090 Operating violations. (Effective until January 1, 1981.) It shall be unlawful for any person to operate any snowmobile:

(1) At a rate of speed greater than reasonable and prudent under the existing conditions.

(2) While under the influence of intoxicating liquor or narcotics or habit forming drugs.

(3) In a manner so as to endanger the person or property of another.

(4) Without a lighted headlight and taillight between the hours of dusk and dawn, or when otherwise required for the safety of others.

(5) Without an adequate braking device which may be operated either by hand or foot.

(6) Without an adequate and operating muffling device which shall effectively blend the exhaust and motor noise in such a manner so as to preclude excessive or unusual noise, and, (a) on snowmobiles manufactured on or before January 4, 1973, which shall effectively limit such noise at a level of eighty-six decibels, or below, on the "A" scale at fifty feet, and (b) on snowmobiles manufactured after January 4, 1973, which shall effectively limit such noise at a level of eighty-two decibels, or below, on the "A" scale at fifty feet, and (c) on snowmobiles manufactured after January 1, 1975, which shall effectively limit such noise at a level of seventy-eight decibels, or below, as measured on the "A" scale at a distance of fifty feet, under testing procedures as established by the department of ecology; except snowmobiles used in organized racing events in an area designated for that purpose may use a bypass or cutout device. This section shall not affect the power of the department of ecology to adopt noise performance standards for snowmobiles. Noise performance standards adopted or to be adopted by the department of ecology shall be in addition to the standards contained in this section, but the department's standards shall supersede this section to the extent of any inconsistency.

(7) Upon the paved portion or upon the shoulder or inside bank or slope of any public roadway or highway, or upon the median of any divided highway, except as provided in RCW 46.10.100 and 46.10.110.

(8) In any area or in such a manner so as to expose the underlying soil or vegetation, or to injure, damage, or destroy trees or growing crops.

(9) Without a current registration decal affixed thereon, if not exempted under RCW 46.10.030 as now or hereafter amended. [1979 ex.s. c 182 § 10; 1975 1st ex.s. c 181 § 5; 1971 ex.s. c 29 § 9.]

46.10.090 Operating violations. (Effective January 1, 1981.) (1) It is a traffic infraction for any person to operate any snowmobile:

(a) At a rate of speed greater than reasonable and prudent under the existing conditions.

(b) In a manner so as to endanger the property of another.

(c) Without a lighted headlight and taillight between the hours of dusk and dawn, or when otherwise required for the safety of others.

(d) Without an adequate braking device which may be operated either by hand or foot.

(e) Without an adequate and operating muffling device which shall effectively blend the exhaust and motor noise in such a manner so as to preclude excessive or unusual noise, and, (i) on snowmobiles manufactured on or before January 4, 1973, which shall effectively limit such noise at a level of eighty-six decibels, or below, on the "A" scale at fifty feet, and (ii) on snowmobiles manufactured after January 4, 1973, which shall effectively limit such noise at a level of eighty-two decibels, or below, on the "A" scale at fifty feet, and (iii) on snowmobiles manufactured after January 1, 1975, which shall effectively limit such noise at a level of seventy-eight decibels, or below, as measured on the "A" scale at a distance of fifty feet, under testing procedures as established by the department of ecology; except snowmobiles used in organized racing events in an area designated for that purpose may use a bypass or cutout device. This section shall not affect the power of the department of ecology to adopt noise performance standards for snowmobiles. Noise performance standards adopted or to be adopted by the department of ecology shall be in addition to the standards contained in this section, but the department's standards shall supersede this section to the extent of any inconsistency.

(f) Upon the paved portion or upon the shoulder or inside bank or slope of any public roadway or highway, or upon the median of any divided highway, except as provided in RCW 46.10.100 and 46.10.110.

(g) In any area or in such a manner so as to expose the underlying soil or vegetation, or to injure, damage, or destroy trees or growing crops.

(h) Without a current registration decal affixed thereon, if not exempted under RCW 46.10.030 as now or hereafter amended.

(2) It is a misdemeanor for any person to operate any snowmobile so as to endanger the person of another or while under the influence of intoxicating liquor or narcotics or habit-forming drugs. [1980 c 148 § 1. Prior: 1979 ex.s. c 182 § 10; 1979 ex.s. c 136 § 43; 1975 1st ex.s. c 181 § 5; 1971 ex.s. c 29 § 9.]

Effective date—1980 c 148: "Sections 1 through 7 of this 1980 act shall take effect January 1, 1981. Section 8 of this 1980 act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing institutions, and shall take effect immediately." [1980 c 148 § 9.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.10.190 General penalty—Disposition of fines and forfeitures—Civil liability. (Effective until January 1, 1981.) (1) Except as provided in RCW 46.10.130, any person violating the provisions of this chapter shall be guilty of a misdemeanor: *Provided*, That the fine for failing to display a valid registration decal under RCW 46.10.090 as now or hereafter amended shall, upon conviction or forfeiture of bail, be a fine of twenty-five dollars and sixty percent of such fine shall be remitted to

the state treasurer for deposit in the snowmobile account in the general fund to be expended for snowmobile purposes as provided in this chapter and forty percent remitted to the general fund of the local government.

(2) In addition to the penalties provided in subsection (1) of this section, the operator and/or the owner of any snowmobile used with the permission of the owner shall be liable for three times the amount of any damage to trees, shrubs, growing crops, or other property injured as the result of travel by such snowmobile over the property involved. [1979 ex.s. c 182 § 14; 1975 1st ex.s. c 181 § 6; 1971 ex.s. c 29 § 19.]

46.10.190 General penalty—Civil liability. (Effective January 1, 1981.) (1) Except as provided in RCW 46.10.090(2) and 46.10.130, any violation of the provisions of this chapter is a traffic infraction: *Provided*, That the penalty for failing to display a valid registration decal under RCW 46.10.090 as now or hereafter amended shall be a fine of twenty-five dollars and sixty percent of such fine shall be remitted to the state treasurer for deposit in the snowmobile account in the general fund to be expended for snowmobile purposes as provided in this chapter and forty percent remitted to the general fund of the local government.

(2) In addition to the penalties provided in subsection (1) of this section, the operator and/or the owner of any snowmobile used with the permission of the owner shall be liable for three times the amount of any damage to trees, shrubs, growing crops, or other property injured as the result of travel by such snowmobile over the property involved. [1980 c 148 § 2. Prior: 1979 ex.s. c 182 § 14; 1979 ex.s. c 136 § 44; 1975 1st ex.s. c 181 § 6; 1971 ex.s. c 29 § 19.]

Effective date—1980 c 148: See note following RCW 46.10.090.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.10.200 Enforcement. (Effective July 1, 1981.) The provisions of this chapter shall be enforced by all persons having the authority to enforce any of the laws of this state, including, without limitation, officers of the state patrol, county sheriffs and their deputies, all municipal law enforcement officers within their respective jurisdictions, wildlife agents, state park rangers, state fisheries patrol officers, and those employees of the department of natural resources designated by the commissioner of public lands under RCW 43.30.310, as having police powers to enforce the laws of this state. [1980 c 78 § 131; 1971 ex.s. c 29 § 20.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Chapter 46.12

CERTIFICATES OF OWNERSHIP AND REGISTRATION

Sections

46.12.360 Reimbursement to owner of stolen vehicle. (Effective September 1, 1981.)

46.12.360 Reimbursement to owner of stolen vehicle. (Effective September 1, 1981.) A vehicle owner shall be reimbursed from the motor vehicle fund when: (1) His vehicle identification number was physically inspected and verified pursuant to RCW 46.12.030(3); and (2) the vehicle is determined subsequently to have been reported stolen at the time of the inspection. Such reimbursement shall be for the value of the vehicle as determined by criteria set forth in RCW 82.44.040: *Provided*, That no claim shall be allowed under this section following a satisfactory showing by the department that errors, omissions, or transpositions were made in entering the vehicle's identity in the stolen vehicle file. [1980 c 32 § 7; 1975-'76 2nd ex.s. c 91 § 7.]

Effective date—Transfer of moneys—1980 c 32 § 7: "Section 7 of this act shall take effect on September 1, 1981. Any moneys held on that date in the account disestablished by section 7 of this act shall be transferred to the motor vehicle fund." [1980 c 32 § 8.] Section 7 of this act is the amendment of RCW 46.12.360 by 1980 c 32.

Severability—Effective date—1975-'76 2nd ex.s. c 91: See notes following RCW 46.12.300.

Chapter 46.16

VEHICLE LICENSES

Sections

46.16.015 Emission control inspections required—Exceptions. (Effective January 1, 1982.)

46.16.020 Exemptions—State and publicly owned vehicles—Registration.

46.16.035 Exemptions—Private school buses.

46.16.063 Additional fee for recreational vehicles.

46.16.090 Gross weight fees on farm trucks—Penalty. (Effective until January 1, 1981.)

46.16.090 Gross weight fees on farm trucks—Penalty. (Effective January 1, 1981.)

46.16.135 Monthly tonnage license—Penalty. (Effective until January 1, 1981.)

46.16.135 Monthly tonnage license—Penalty. (Effective January 1, 1981.)

46.16.140 Overloading licensed capacity—Additional license—Penalties. (Effective until January 1, 1981.)

46.16.140 Overloading licensed capacity—Additional license—Penalties. (Effective January 1, 1981.)

46.16.145 Overloading licensed capacity—Penalties. (Effective until January 1, 1981.)

46.16.145 Overloading licensed capacity—Penalties. (Effective January 1, 1981.)

46.16.350 License plates for amateur radio operators—Duties of holder when radio license expires or is revoked—Penalty. (Effective until January 1, 1981.)

46.16.350 License plates for amateur radio operators—Duties of holder when radio license expires or is revoked—Penalty. (Effective January 1, 1981.)

46.16.500 Liability of operator and/or owner or lessee for violations.

46.16.585 Personalized license plates—Fees—Renewal—Penalty. (Effective until January 1, 1981.)

46.16.585 Personalized license plates—Fees—Renewal—Penalty. (Effective January 1, 1981.)

46.16.595 Personalized license plates—Transfer or surrender of plates upon sale or release of vehicle ownership—Penalty. (Effective until January 1, 1981.)

46.16.595 Personalized license plates—Transfer or surrender of plates upon sale or release of vehicle ownership—Penalty. (Effective January 1, 1981.)

46.16.015 Emission control inspections required—
Exceptions. (Effective January 1, 1982.) (1) Neither the department of licensing nor its agents may issue or renew a motor vehicle license for any vehicle registered in an emission contributing area, as that area is established under RCW 70.120.040, unless the application for issuance or renewal is: (a) Accompanied by a valid certificate of compliance issued pursuant to RCW 70.120.060, 70.120.080, or 70.120.090 or a valid certificate of acceptance issued pursuant to RCW 70.120.070; or (b) exempted from this requirement pursuant to subsection (2) of this section. The certificates must have a date of validation which is within ninety days of the date of application for the vehicle license or license renewal. Certificates for fleet vehicles may have a date of validation which is within twelve months of the assigned license renewal date.

(2) Subsection (1) of this section does not apply to the following vehicles:

- (a) New motor vehicles whose equitable or legal title has never been transferred to a person who in good faith purchases the vehicle for purposes other than resale;
- (b) Motor vehicles fifteen years old or older;
- (c) Motor vehicles that use propulsion units powered exclusively by electricity;
- (d) Motorcycles as defined in RCW 46.04.330 and motor-driven cycles as defined in RCW 46.04.332;
- (e) Motor vehicles powered by diesel engines;
- (f) Farm vehicles as defined in RCW 46.04.181; or
- (g) Motor vehicles exempted by the director of the department of ecology.

The provisions of subparagraph (a) of this subsection may not be construed as exempting from the provisions of subsection (1) of this section applications for the renewal of licenses for motor vehicles that are or have been leased.

(3) The department of licensing shall mail to each owner of a vehicle registered within an emission contributing area a notice regarding the boundaries of the area and restrictions established under this section that apply to vehicles registered in such areas. The information for the notice shall be supplied to the department of licensing by the department of ecology. Such a notice shall be mailed to the owner ninety days prior to the expiration date of the owner's motor vehicle license. [1980 c 176 § 1; 1979 ex.s. c 163 § 11.]

Effective date—1979 ex.s. c 163: "Section 11 of this act [RCW 46.16.015] shall take effect on January 1, 1982. The director of the department of licensing and the director of the department of ecology are authorized to take immediately such steps as are necessary to ensure that section 11 of this act is implemented on its effective date." [1979 ex.s. c 163 § 16.]

Expiration date—Severability—1979 ex.s. c 163: See notes following RCW 70.120.010.

46.16.020 Exemptions—State and publicly owned vehicles—Registration.

Severability—1973 1st ex.s. c 132: See RCW 46.16.900, 46.70.920.

Special license plates issued without fee

Congressional Medal of Honor recipients: RCW 46.16.620.
disabled veterans: RCW 73.04.110.

46.16.035 Exemptions—Private school buses. Any bus or vehicle owned and operated by a private school or schools meeting the requirements of RCW 28A.02.201 and used by that school or schools primarily to transport children to and from school or to transport children in connection with school activities shall be exempt from the payment of license fees for the licensing thereof as in this chapter provided. A license issued by the department for such bus or vehicle shall be considered an exempt license under RCW 82.44.010. [1980 c 88 § 1.]

46.16.063 Additional fee for recreational vehicles. In addition to other fees for the licensing of vehicles there shall be paid and collected annually for each camper, travel trailer and motor home as the same are defined in RCW 82.50.010 a fee of one dollar to be deposited in the RV account of the motor vehicle fund. [1980 c 60 § 2.]

Effective date—1980 c 60: See note following RCW 47.38.050.

46.16.090 Gross weight fees on farm trucks—
Penalty. (Effective until January 1, 1981.) 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.]

46.16.090 Gross weight fees on farm trucks—Penalty. (Effective January 1, 1981.) 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.

Operation of such a specially licensed vehicle or trailer in transportation upon public highways in violation of the limitations of this section is a traffic infraction. [1979 ex.s. c 136 § 45; 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.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.16.135 Monthly tonnage license—Penalty. (Effective until January 1, 1981.) Tonnage for any vehicle or combination of vehicles having a declared gross weight of twelve thousand pounds or more may be purchased for any full registration month or months at one-twelfth of the usual annual tonnage fee multiplied by the number of full months for which tonnage is purchased. An additional fee of two dollars shall be charged by the director each time tonnage is purchased. The director is authorized to establish rules and regulations relative to the issuance and display of certificates or insignia.

Any person who operates a vehicle licensed under the provisions of this section upon the public highways after the expiration of the monthly tonnage license, is guilty of a misdemeanor, and in addition shall be required to purchase a tonnage license for the vehicle involved at the fee covering an entire registration year's operation thereof, less the fees for any registration month or months of the registration year already paid. If, within five days, no tonnage license for a full registration year has been purchased as required aforesaid, the Washington state patrol, county sheriff, or city police shall impound such vehicle in such manner as may be directed for such cases by the chief of the Washington state patrol, until such requirement is met. [1979 c 134 § 1; 1975-'76 2nd ex.s. c 64 § 3; 1975 1st ex.s. c 118 § 6; 1969 ex.s. c 170 § 7; 1961 c 12 § 46.16.135. Prior: 1951 c 269 § 16.]

46.16.135 Monthly tonnage license—Penalty. (Effective January 1, 1981.) Tonnage for any vehicle or combination of vehicles having a declared gross weight of twelve thousand pounds or more may be purchased for any full registration month or months at one-twelfth of the usual annual tonnage fee multiplied by the number of full months for which tonnage is purchased. An additional fee of two dollars shall be charged by the director each time tonnage is purchased. The director is authorized to establish rules and regulations relative to the issuance and display of certificates or insignia.

Operation of a vehicle licensed under the provisions of this section by any person upon the public highways after the expiration of the monthly tonnage license, is a traffic infraction, and in addition the person shall be required to purchase a tonnage license for the vehicle involved at the fee covering an entire registration year's operation thereof, less the fees for any registration month or months of the registration year already paid. If, within five days, no tonnage license for a full registration year has been purchased as required aforesaid, the Washington state patrol, county sheriff, or city police shall impound such vehicle in such manner as may be directed for such cases by the chief of the Washington state patrol, until such requirement is met. [1979 ex.s. c 136 § 46; 1979 c 134 § 1; 1975-'76 2nd ex.s. c 64 § 3; 1975 1st ex.s. c 118 § 6; 1969 ex.s. c 170 § 7; 1961 c 12 § 46.16.135. Prior: 1951 c 269 § 16.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Effective dates—Severability—1975-'76 2nd ex.s. c 64: See notes following RCW 46.16.070.

Effective date—Severability—1975 1st ex.s. c 118: See notes following RCW 46.16.006.

46.16.140 Overloading licensed capacity—Additional license—Penalties. (Effective until January 1, 1981.) Any person who operates, or causes, permits, or suffers to be operated upon a public highway of this state any auto stage, motor truck, trailer, pole trailer, or semitrailer, with passengers, or with a maximum gross weight, in excess of that for which the vehicle is licensed shall be guilty of a misdemeanor.

Any person who operates or causes to be operated upon a public highway of this state any motor truck, trailer, pole trailer, or semitrailer with a maximum gross weight in excess of the maximum gross weight for which the vehicle is licensed shall be deemed to have set a new maximum gross weight and shall, in addition to any penalties otherwise provided, be required to purchase a new license covering the new maximum gross weight and any such person who fails to secure such new license shall be guilty of a misdemeanor: *Provided*, That this section shall not apply to for hire vehicles or auto stages operating principally within cities and towns: *Provided further*, That upon surrender of the license originally purchased the director shall allow proper credit for the gross weight fee originally paid: *Provided further*, That no such person may be permitted or required to purchase the new license upon a gross weight which would exceed the maximum gross weight allowed by law. [1961 c 12 § 46.16.140. Prior: 1955 c 384 § 16; 1951 c 269 § 18; 1937 c 188 § 25, part; RRS § 6312-25, part.]

46.16.140 Overloading licensed capacity—Additional license—Penalties. (Effective January 1, 1981.) It is a traffic infraction for any person to operate, or cause, permit, or suffer to be operated upon a public highway of this state any auto stage, motor truck, trailer, pole trailer, or semitrailer, with passengers, or with a maximum gross weight, in excess of that for which the vehicle is licensed.

Any person who operates or causes to be operated upon a public highway of this state any motor truck, trailer, pole trailer, or semitrailer with a maximum gross weight in excess of the maximum gross weight for which the vehicle is licensed shall be deemed to have set a new maximum gross weight and shall, in addition to any penalties otherwise provided, be required to purchase a new license covering the new maximum gross weight, and any failure to secure such new license is a traffic infraction: *Provided*, That this section shall not apply to for hire vehicles or auto stages operating principally within cities and towns: *Provided further*, That upon surrender of the license originally purchased the director shall allow proper credit for the gross weight fee originally paid: *Provided further*, That no such person may be permitted or required to purchase the new license upon a gross weight which would exceed the maximum gross weight allowed by law. [1979 ex.s. c 136 § 47;

1961 c 12 § 46.16.140. Prior: 1955 c 384 § 16; 1951 c 269 § 18; 1937 c 188 § 25, part; RRS § 6312-25, part.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.16.145 Overloading licensed capacity—Penalties. (Effective until January 1, 1981.) Any person violating any of the provisions of RCW 46.16.140 shall, upon a first conviction, pay a fine of not less than twenty-five dollars nor more than fifty dollars; upon a second conviction pay a fine of not less than fifty dollars nor more than one hundred dollars, and in addition the court may suspend the certificate of license registration of the vehicle for not more than thirty days; upon a third and subsequent conviction pay a fine of not less than one hundred dollars nor more than two hundred dollars, and in addition the court shall suspend the certificate of license registration of the vehicle for not less than thirty days nor more than ninety days.

Upon ordering the suspension of any certificate of license registration, the court or judge shall forthwith secure such certificate and mail it to the director. [1975-'76 2nd ex.s. c 64 § 5; 1961 c 12 § 46.16.145. Prior: 1951 c 269 § 19; 1937 c 188 § 25, part; RRS § 6312-25, part.]

46.16.145 Overloading licensed capacity—Penalties. (Effective January 1, 1981.) Any person violating any of the provisions of RCW 46.16.140 shall, upon a first offense, pay a penalty of not less than twenty-five dollars nor more than fifty dollars; upon a second offense pay a penalty of not less than fifty dollars nor more than one hundred dollars, and in addition the court may suspend the certificate of license registration of the vehicle for not more than thirty days; upon a third and subsequent offense pay a penalty of not less than one hundred dollars nor more than two hundred dollars, and in addition the court shall suspend the certificate of license registration of the vehicle for not less than thirty days nor more than ninety days.

Upon ordering the suspension of any certificate of license registration, the court or judge shall forthwith secure such certificate and mail it to the director. [1979 ex.s. c 136 § 48; 1975-'76 2nd ex.s. c 64 § 5; 1961 c 12 § 46.16.145. Prior: 1951 c 269 § 19; 1937 c 188 § 25, part; RRS § 6312-25, part.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Effective dates—Severability—1975-'76 2nd ex.s. c 64: See notes following RCW 46.16.070.

46.16.350 License plates for amateur radio operators—Duties of holder when radio license expires or is revoked—Penalty. (Effective until January 1, 1981.) Any radio amateur operator who holds a special call letter license plate as issued under the provisions of RCW 46.16.320 through 46.16.350, and who has allowed his federal communications commission license to expire, or has had it revoked, must notify the director in writing within thirty days and surrender his call letter license

plate. Failure to do so will constitute a gross misdemeanor. [1967 c 32 § 24; 1961 c 12 § 46.16.350. Prior: 1957 c 145 § 4.]

46.16.350 License plates for amateur radio operators—Duties of holder when radio license expires or is revoked—Penalty. (Effective January 1, 1981.) Any radio amateur operator who holds a special call letter license plate as issued under the provisions of RCW 46.16.320 through 46.16.350, and who has allowed his federal communications commission license to expire, or has had it revoked, must notify the director in writing within thirty days and surrender his call letter license plate. Failure to do so is a traffic infraction. [1979 ex.s. c 136 § 49; 1967 c 32 § 24; 1961 c 12 § 46.16.350. Prior: 1957 c 145 § 4.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.16.500 Liability of operator and/or owner or lessee for violations. Whenever an act or omission is declared to be unlawful in chapter 46.16 RCW, if the operator of the vehicle is not the owner or lessee of such vehicle, but is so operating or moving the vehicle with the express or implied permission of the owner or lessee, then the operator and/or owner or lessee are both subject to the provisions of this chapter with the primary responsibility to be that of the owner or lessee.

If the person operating the vehicle at the time of the unlawful act or omission is not the owner or lessee of the vehicle, such person is fully authorized to accept the citation and execute the promise to appear on behalf of the owner or lessee. [1980 c 104 § 3; 1969 ex.s. c 69 § 2.]

46.16.585 Personalized license plates—Fees—Renewal—Penalty. (Effective until January 1, 1981.) In addition to the regular registration fee, and any other fees and taxes required to be paid upon registration, the applicant shall be charged a fee of thirty dollars. In addition to the regular renewal fee, and in addition to any other fees and taxes required to be paid, the applicant for a renewal of such plates shall be charged an additional fee of twenty dollars: *Provided*, That any person who purchased personalized license plates containing three letters and three digits on or between the dates of August 9, 1971, and November 6, 1973, shall not be required to pay the additional annual renewal fee of twenty dollars commencing with the year 1976. All personalized license plates must be renewed on an annual basis, regardless of whether a vehicle on which they are displayed will not be driven on public highways or may also be eligible to display permanent license plates valid for the life of such vehicle without annual renewal. Personalized license plates that are not renewed must be surrendered to the department, and failure to do so shall be a misdemeanor. [1975 c 59 § 4; 1973 1st ex.s. c 200 § 7.]

46.16.585 Personalized license plates—Fees—Renewal—Penalty. (Effective January 1, 1981.) In addition to the regular registration fee, and any other fees and taxes required to be paid upon registration, the applicant shall be charged a fee of thirty dollars. In addition to the regular renewal fee, and in addition to any other fees and taxes required to be paid, the applicant for a renewal of such plates shall be charged an additional fee of twenty dollars: *Provided*, That any person who purchased personalized license plates containing three letters and three digits on or between the dates of August 9, 1971, and November 6, 1973, shall not be required to pay the additional annual renewal fee of twenty dollars commencing with the year 1976. All personalized license plates must be renewed on an annual basis, regardless of whether a vehicle on which they are displayed will not be driven on public highways or may also be eligible to display permanent license plates valid for the life of such vehicle without annual renewal. Personalized license plates that are not renewed must be surrendered to the department, and failure to do so is a traffic infraction. [1979 ex.s. c 136 § 51; 1975 c 59 § 4; 1973 1st ex.s. c 200 § 7.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.16.595 Personalized license plates—Transfer or surrender of plates upon sale or release of vehicle ownership—Penalty. (Effective until January 1, 1981.) When any person who has been issued personalized license plates sells, trades, or otherwise releases ownership of the vehicle upon which the personalized license plates have been displayed, he shall immediately report the transfer of such plates to an acquired vehicle or camper eligible for personalized license plates, pursuant to RCW 46.16.590, or he shall surrender such plates to the department forthwith and release his priority to the letters or numbers, or combination thereof, displayed on the personalized license plates. Failure to surrender such plates shall constitute a misdemeanor. [1975 c 59 § 6; 1973 1st ex.s. c 200 § 9.]

46.16.595 Personalized license plates—Transfer or surrender of plates upon sale or release of vehicle ownership—Penalty. (Effective January 1, 1981.) When any person who has been issued personalized license plates sells, trades, or otherwise releases ownership of the vehicle upon which the personalized license plates have been displayed, he shall immediately report the transfer of such plates to an acquired vehicle or camper eligible for personalized license plates, pursuant to RCW 46.16.590, or he shall surrender such plates to the department forthwith and release his priority to the letters or numbers, or combination thereof, displayed on the personalized license plates. Failure to surrender such plates is a traffic infraction. [1979 ex.s. c 136 § 52; 1975 c 59 § 6; 1973 1st ex.s. c 200 § 9.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Chapter 46.20

DRIVERS' LICENSES—IDENTICARDS

Sections

- 46.20.021 Driver's license required—Surrender of license held from another jurisdiction—Other license not required. (Effective until January 1, 1981.)
- 46.20.021 Driver's license required—Surrender of license held from another jurisdiction—Penalty—Other license not required. (Effective January 1, 1981.)
- 46.20.041 Physically or mentally disabled persons—Procedure—Restrictions—Violations—Penalty. (Effective until January 1, 1981.)
- 46.20.041 Physically or mentally disabled persons—Procedure—Restrictions—Violations—Penalty. (Effective January 1, 1981.)
- 46.20.171 Records of applications, suspensions, or revocations, drivers' records to be maintained. (Effective until January 1, 1981.)
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- 46.20.308 Implied consent—Revocation, etc., for refusal to submit to chemical tests to determine alcoholic content of blood (as amended by 1979 ex.s. c 136). (Effective January 1, 1981.)
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- 46.20.311 Duration of suspension or revocation—Conditions for reissuance or renewal. (Effective January 1, 1981.)
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- 46.20.329 Formal hearing—Time and place—Notice—Stay of suspension or revocation pending hearing or subsequent appeal—Exception—Hearing officers. (Effective January 1, 1981.)
- 46.20.342 Driving while license suspended or revoked—Penalty—Extension of suspension or revocation period. (Effective until January 1, 1981.)
- 46.20.342 Driving while license suspended or revoked—Penalty—Extension of suspension or revocation period. (Effective January 1, 1981.)
- 46.20.440 Operation of vehicles requiring special skills—Additional examination and special license endorsement required—Exemption—Instruction permit, fee.

46.20.021 Driver's license required—Surrender of license held from another jurisdiction—Other license not required. (Effective until January 1, 1981.) (1) No person, except those hereinafter expressly exempted shall drive any motor vehicle upon a highway in this state unless such person has a valid driver's license issued under the provisions of this chapter. No person shall receive a driver's license unless and until he surrenders to the department all valid driver's licenses in his possession issued to him by any other jurisdiction. All surrendered licenses shall be returned by the department to the issuing department together with information that the licensee is now licensed in a new jurisdiction. No person shall be permitted to have more than one valid driver's license at any time.

(2) Any person licensed as a driver hereunder may exercise the privilege thereby granted upon all streets and highways in this state and shall not be required to obtain any other license to exercise such privilege by any county, municipal or local board, or body having authority to adopt local police regulations. [1965 ex.s. c 121 § 2.]

46.20.021 Driver's license required—Surrender of license held from another jurisdiction—Penalty—Other license not required. (Effective January 1, 1981.)

(1) No person, except those hereinafter expressly exempted shall drive any motor vehicle upon a highway in this state unless such person has a valid driver's license issued under the provisions of this chapter. No person shall receive a driver's license unless and until he surrenders to the department all valid driver's licenses in his possession issued to him by any other jurisdiction. All surrendered licenses shall be returned by the department to the issuing department together with information that the licensee is now licensed in a new jurisdiction. No person shall be permitted to have more than one valid driver's license at any time. Violation of the provisions of this section is a misdemeanor.

(2) Any person licensed as a driver hereunder may exercise the privilege thereby granted upon all streets and highways in this state and shall not be required to obtain any other license to exercise such privilege by any county, municipal or local board, or body having authority to adopt local police regulations. [1979 ex.s. c 136 § 53; 1965 ex.s. c 121 § 2.]

Reviser's note: Throughout chapter 46.20 RCW the phrases "this 1965 amendatory act" and "this act" have been changed to "this chapter." The 1965 amendatory act [1965 ex.s. c 121] consists of RCW 46.20.021 through 46.20.055, 46.20.091, 46.20.161 through 46.20.181, 46.20.205, 46.20.207, 46.20.215, 46.20.285, 46.20.291, 46.20.305 through 46.20.315, 46.20.322 through 46.20.336, 46.20.342 through 46.20.344, 46.20.900, 46.20.910, and 46.64.025, the 1965 amendments to RCW 46.20.102 through 46.20.106, 46.20.120 through 46.20.140, 46.20.190, 46.20.200, 46.20.270, and 46.20.340, and 1965 ex.s. c 121 § 1 footnoted after RCW 46.20.021.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Purpose of 1965 ex.s. c 121—Construction: "With the advent of greatly increased interstate vehicular travel and the migration of motorists between the states, the legislature recognizes the necessity of enacting driver licensing laws which are reasonably uniform with the laws of other states and are at the same time based upon sound, realistic principles, stated in clear explicit language. To achieve these ends

the legislature does hereby adopt this 1965 amendatory act relating to driver licensing modeled after the Uniform Vehicle Code subject to such variances as are deemed better suited to the people of this state. It is intended that this 1965 amendatory act be liberally construed to effectuate the purpose of improving the safety of our highways through driver licensing procedures within the framework of the traditional freedoms to which every motorist is entitled." [1965 ex.s. c 121 § 1.] For application of this section see reviser's note above.

46.20.041 Physically or mentally disabled persons—Procedure—Restrictions—Violations—

Penalty. (Effective until January 1, 1981.) (1) The department shall permit any person suffering from any physical or mental disability or disease which may affect that person's ability to drive a motor vehicle, to demonstrate personally that notwithstanding such disability or disease he or she is a proper person to drive a motor vehicle. The department may in addition require such person to obtain a certificate showing his or her condition signed by a licensed physician or other proper authority designated by the department. The certificate shall be for the confidential use of the director and the chief of the Washington state patrol and for such other cognizant public officials as may be designated by law. It shall be exempt from public inspection and copying notwithstanding the provisions of chapter 42.17 RCW. The certificate may not be offered as evidence in any court except when appeal is taken from the order of the director suspending, revoking, canceling, or refusing a vehicle driver's license.

(2) The department may issue a driver's license to such a person imposing restrictions suitable to the licensee's driving ability with respect to the special mechanical control devices required on a motor vehicle or the type of motor vehicle which the licensee may operate or such other restrictions applicable to the licensee as the department may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

(3) The department may either issue a special restricted license or may set forth such restrictions upon the usual license form.

(4) The department may upon receiving satisfactory evidence of any violation of the restrictions of such license suspend or revoke the same, but the licensee shall be entitled to a driver improvement interview and a hearing as upon a suspension or revocation under this chapter.

(5) It is a misdemeanor for any person to operate a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to him or her. [1979 c 61 § 2; 1965 ex.s. c 121 § 5.]

46.20.041 Physically or mentally disabled persons—Procedure—Restrictions—Violations—

Penalty. (Effective January 1, 1981.) (1) The department shall permit any person suffering from any physical or mental disability or disease which may affect that person's ability to drive a motor vehicle, to demonstrate personally that notwithstanding such disability or disease he or she is a proper person to drive a motor vehicle. The department may in addition require such person to obtain a certificate showing his or her condition signed by a licensed physician or other proper authority designated

by the department. The certificate shall be for the confidential use of the director and the chief of the Washington state patrol and for such other cognizant public officials as may be designated by law. It shall be exempt from public inspection and copying notwithstanding the provisions of chapter 42.17 RCW. The certificate may not be offered as evidence in any court except when appeal is taken from the order of the director suspending, revoking, canceling, or refusing a vehicle driver's license.

(2) The department may issue a driver's license to such a person imposing restrictions suitable to the licensee's driving ability with respect to the special mechanical control devices required on a motor vehicle or the type of motor vehicle which the licensee may operate or such other restrictions applicable to the licensee as the department may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

(3) The department may either issue a special restricted license or may set forth such restrictions upon the usual license form.

(4) The department may upon receiving satisfactory evidence of any violation of the restrictions of such license suspend or revoke the same but the licensee shall be entitled to a driver improvement interview and a hearing as upon a suspension or revocation under this chapter.

(5) It is a traffic infraction for any person to operate a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to him or her. [1979 ex.s. c 136 § 54; 1979 c 61 § 2; 1965 ex.s. c 121 § 5.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.20.171 Records of applications, suspensions, or revocations, drivers' records to be maintained. (Effective until January 1, 1981.)

(1) The department shall file every application for a license received by it and shall maintain suitable indexes containing the following:

(a) All applications denied and on each thereof note the reasons for such denial;

(b) All applications granted; and

(c) The name of every licensee whose license has been suspended or revoked by the department and after each such name shall note the reasons for such action.

(2) The department shall also maintain a record for every licensed driver which shall include all accident reports and abstracts of court records of convictions received by it under the laws of this state and in connection therewith maintain convenient records in order that an individual record of each licensee showing the convictions of such licensee, the traffic accidents in which he has been involved and any prior actions taken by the department in connection with his driving record shall be readily ascertainable for the consideration of the department. [1965 ex.s. c 121 § 19.]

46.20.171 Records of applications, suspensions, or revocations, drivers' records to be maintained. (Effective January 1, 1981.) (1) The department shall file every

application for a license received by it and shall maintain suitable indexes containing the following:

(a) All applications denied and on each thereof note the reasons for such denial;

(b) All applications granted; and

(c) The name of every licensee whose license has been suspended or revoked by the department and after each such name shall note the reasons for such action.

(2) The department shall also maintain a record for every licensed driver which shall include all accident reports and abstracts of court records of convictions and findings that a traffic infraction has been committed received by it under the laws of this state and in connection therewith maintain convenient records in order that an individual record of each licensee showing the licensee's convictions, the findings that he has committed a traffic infraction, the traffic accidents in which he has been involved and any prior actions taken by the department in connection with his driving record shall be readily ascertainable for the consideration of the department. [1979 ex.s. c 136 § 55; 1965 ex.s. c 121 § 19.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.20.190 License to be in immediate possession and displayed on demand. (Effective until January 1, 1981.) Every licensee shall have his driver's license in his immediate possession at all times when operating a motor vehicle and shall display the same upon demand to any police officer or to any other person when and if required by law to do so. [1965 ex.s. c 121 § 15; 1961 c 12 § 46.20.190. Prior: 1937 c 188 § 59; RRS § 6312-59; 1921 c 108 § 7, part; RRS § 6369, part.]

46.20.190 License to be in immediate possession and displayed on demand. (Effective January 1, 1981.) Every licensee shall have his driver's license in his immediate possession at all times when operating a motor vehicle and shall display the same upon demand to any police officer or to any other person when and if required by law to do so. The offense described in this section is a nonmoving offense. [1979 ex.s. c 136 § 56; 1965 ex.s. c 121 § 15; 1961 c 12 § 46.20.190. Prior: 1937 c 188 § 59; RRS § 6312-59; 1921 c 108 § 7, part; RRS § 6369, part.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Driver's license, duty to display under other circumstances: RCW 46.52.020, 46.61.020, 46.61.021.

46.20.215 Nonresidents—Suspension or revocation of licenses—Reporting convictions. (Effective until January 1, 1981.) (1) The privilege of driving a motor vehicle on the highways of this state given to a nonresident hereunder shall be subject to suspension or revocation by the department in like manner and for like cause as a driver's license issued hereunder may be suspended or revoked.

(2) The department shall, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle

laws of this state, forward a report of such conviction to the motor vehicle administrator in the state wherein the person so convicted is a resident. Such report shall clearly identify the person convicted; describe the violation specifying the section of the statute, code or ordinance violated; identify the court in which action was taken; and indicate whether a plea of guilty or not guilty was entered, or the conviction was a result of the forfeiture of bail, bond or other security. [1965 ex.s. c 121 § 21.]

46.20.215 Nonresidents—Suspension or revocation of licenses—Reporting convictions and traffic infractions. (Effective January 1, 1981.) (1) The privilege of driving a motor vehicle on the highways of this state given to a nonresident hereunder shall be subject to suspension or revocation by the department in like manner and for like cause as a driver's license issued hereunder may be suspended or revoked.

(2) The department shall, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws of this state, forward a report of such conviction to the motor vehicle administrator in the state wherein the person so convicted is a resident. Such report shall clearly identify the person convicted; describe the violation specifying the section of the statute, code or ordinance violated; identify the court in which action was taken; and indicate whether a plea of guilty or not guilty was entered, or the conviction was a result of the forfeiture of bail, bond or other security.

(3) The department shall, upon receiving a record of the commission of a traffic infraction in this state by a nonresident driver of a motor vehicle, forward a report of the traffic infraction to the motor vehicle administrator in the state where the person who committed the infraction resides. The report shall clearly identify the person found to have committed the infraction; describe the infraction, specifying the section of the statute, code or ordinance violated; identify the court in which action was taken; and indicate whether the determination that an infraction was committed was contested or whether the individual failed to respond to the notice of infraction. [1979 ex.s. c 136 § 57; 1965 ex.s. c 121 § 21.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.20.270 Conviction of mandatory license suspension or revocation offense—Procedure—Court to forward records of convictions—"Conviction" defined. (Effective until January 1, 1981.) (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 if the convicted person testifies that he or she does not and at the time of the offense did not have a current and valid vehicle driver's license, 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 may not issue a driver's license to such persons during the period of suspension or revocation: *Provided, also*, That if the driver's license of such convicted person has been lost or destroyed and such convicted person makes an affidavit to that effect, sworn to before the judge, the convicted person may not be so confined, but the department may 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.

(3) For the purposes of Title 46 RCW the term "conviction" means 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. [1979 c 61 § 7; 1977 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.]

46.20.270 Conviction of mandatory license suspension or revocation offense—Procedure—Court to forward records of convictions or traffic infractions—Terms defined. (Effective January 1, 1981.) (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 if the convicted person testifies that he or she does not and at the time of the offense did not have a current and valid vehicle driver's license, 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 may not issue a driver's license to such persons during the period of suspension or revocation: *Provided, also*, That if the driver's license of such convicted person has been lost or destroyed and such convicted person makes an affidavit to that effect, sworn to before the judge, the convicted person may not be so confined, but the department may 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, a payment of a fine or penalty, a plea of guilty or a finding of guilt, or a finding that any person has committed a traffic infraction an abstract of the court record in the form prescribed by rule of the supreme court, showing the conviction of any person or the finding that any person has committed a traffic infraction in said court for a violation of any said laws other than regulations governing standing, stopping, parking, and pedestrian offenses.

(3) For the purposes of Title 46 RCW the term "conviction" means 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.

(4) For the purposes of Title 46 RCW the term "finding that a traffic infraction has been committed" means a failure to respond to a notice of infraction or a determination made by a court pursuant to this chapter. Payment of a monetary penalty made pursuant to RCW 46.63.070(2) is deemed equivalent to such a finding. [1979 ex.s. c 136 § 58; 1979 c 61 § 7; 1977 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.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Severability—1967 ex.s. c 145: See RCW 47.98.043.

46.20.291 Authority of department to suspend licenses—Grounds. (Effective January 1, 1981.) (1) The department is hereby authorized to suspend the license of a driver upon a showing by its records or other sufficient evidence that the licensee:

(a) Has committed an offense for which mandatory revocation or suspension of license is provided by law;

(b) Has, by reckless or unlawful operation of a motor vehicle, caused or contributed to an accident resulting in death or injury to any person or serious property damage;

(c) Has been convicted of offenses against traffic regulations governing the movement of vehicles, or found to have committed traffic infractions, with such frequency as to indicate a disrespect for traffic laws or a disregard for the safety of other persons on the highways;

(d) Is incompetent to drive a motor vehicle for any of the reasons enumerated in subsections (4), (5) and (8) of RCW 46.20.031;

(e) Has committed one of the prohibited practices relating to drivers' licenses defined in RCW 46.20.336. [1980 c 128 § 12; 1965 ex.s. c 121 § 25.]

Effective date—Severability—1980 c 128: See notes following RCW 46.63.060.

Negligent homicide by motor vehicle, penalty: RCW 46.61.520.
Reckless driving, suspension of license: RCW 46.61.500.

46.20.308 Implied consent—Revocation, etc., for refusal to submit to chemical tests to determine alcoholic content of blood (as amended by 1979 ex.s. c 176). (1) Any person who operates a motor vehicle upon the public highways of this state shall be deemed to have given consent, subject to the provisions of RCW 46.61.506, to a chemical test or tests of his breath or blood for the purpose of determining the alcoholic content of his blood if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor. The test or tests shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle upon the public highways of this state while under the influence of intoxicating liquor. Such officer shall inform the person of his right to refuse the test, and of his right to have additional tests administered by any qualified person of his choosing as provided in RCW 46.61.506. The officer shall warn the driver that his privilege to drive will be revoked or denied if he refuses to submit to the test. Unless the person to be tested is unconscious, the chemical test administered shall be of his breath only: *Provided*, That if an individual is under arrest for the crime of negligent homicide by motor vehicle as provided in RCW 46.61.520, or if an individual is under arrest for the crime of driving while under the influence of intoxicating liquor or drugs as provided in RCW 46.61.502, which arrest results from an accident in which another person has been injured and there is a reasonable likelihood that such other person may die as a result of injuries sustained in the accident, a breath or blood test may be administered without the consent of the individual so arrested. In such circumstances, the provisions of subsections (2) through (6) of *this section shall not apply.

(2) Any person who is dead, unconscious or who is otherwise in a condition rendering him incapable of refusal, shall be deemed not to have withdrawn the consent provided by subsection (1) of this section

and the test or tests may be administered, subject to the provisions of RCW 46.61.506.

(3) If, following his arrest, the person arrested refuses upon the request of a law enforcement officer to submit to a chemical test of his breath, after being informed that his refusal will result in the revocation or denial of his privilege to drive, no test shall be given. The department of licensing, upon the receipt of a sworn report of the law enforcement officer that he had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle upon the public highways of this state while under the influence of intoxicating liquor and that the person had refused to submit to the test upon the request of the law enforcement officer after being informed that such refusal would result in the revocation or denial of his privilege to drive, shall revoke his license or permit to drive or any nonresident operating privilege. If the person is a resident without a license or permit to operate a motor vehicle in this state, the department shall deny to the person the issuance of a license or permit for a period of six months after the date of the alleged violation, subject to review as hereinafter provided.

(4) Upon revoking the license or permit to drive or the nonresident operating privilege of any person, or upon determining that the issuance of a license or permit shall be denied to the person, as hereinbefore in this section directed, the department shall immediately notify the person involved in writing by personal service or by registered or certified mail of its decision and the grounds therefor, and of his right to a hearing, specifying the steps he must take to obtain a hearing. The person upon receiving such notice may, in writing and within ten days therefrom request a formal hearing. Upon receipt of such request, the department shall afford him an opportunity for a hearing as provided in RCW 46.20.329 and 46.20.332. The scope of such hearing for the purposes of this section shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle upon the public highways of this state while under the influence of intoxicating liquor, whether the person was placed under arrest and whether he refused to submit to the test upon request of the officer after having been informed that such refusal would result in the revocation or denial of his privilege to drive. The department shall order that the revocation or determination that there should be a denial of issuance either be rescinded or sustained. Any decision by the department revoking a person's driving privilege shall be stayed and shall not take effect while a formal hearing is pending as herein provided or during the pendency of a subsequent appeal to superior court: *Provided*, That this stay shall be effective only so long as there is no conviction for a moving violation during pendency of the hearing and appeal.

(5) If the revocation or determination that there should be a denial of issuance is sustained after such a hearing, the person whose license, privilege or permit is so affected shall have the right to file a petition in the superior court of the county wherein he resides, or, if a nonresident of this state, where the charge arose, to review the final order of revocation or denial by the department in the manner provided in RCW 46.20.334.

(6) When it has been finally determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been revoked, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he has a license. [1979 ex.s. c 176 § 3; 1979 c 158 § 151; 1975 1st ex.s. c 287 § 4; 1969 c 1 § 1 (Initiative Measure No. 242 § 1).]

Severability—1979 ex.s. c 176: See note following RCW 46.61.502.

46.20.308 Implied consent—Revocation, etc., for refusal to submit to chemical tests to determine alcoholic content of blood (as amended by 1979 ex.s. c 136). (Effective January 1, 1981.) (1) Any person who operates a motor vehicle upon the public highways of this state shall be deemed to have given consent, subject to the provisions of RCW 46.61.506, to a chemical test or tests of his breath or blood for the purpose of determining the alcoholic content of his blood if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor. The test or tests shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle upon the public highways of this state while

under the influence of intoxicating liquor. Such officer shall inform the person of his right to refuse the test, and of his right to have additional tests administered by any qualified person of his choosing as provided in RCW 46.61.506. The officer shall warn the driver that his privilege to drive will be revoked or denied if he refuses to submit to the test. Unless the person to be tested is unconscious, the chemical test administered shall be of his breath only: *Provided*, That if an individual is under arrest for the crime of negligent homicide by motor vehicle as provided in RCW 46.61.520, or if an individual is under arrest for the crime of driving while under the influence of intoxicating liquor or drugs as provided in RCW 46.61.506, which arrest results from an accident in which another person has been injured and there is a reasonable likelihood that such other person may die as a result of injuries sustained in the accident, a breath or blood test may be administered without the consent of the individual so arrested. In such circumstances, the provisions of subsections (2) through (6) of *this section shall not apply.

(2) Any person who is dead, unconscious, or who is otherwise in a condition rendering him incapable of refusal, shall be deemed not to have withdrawn the consent provided by subsection (1) of this section and the test or tests may be administered, subject to the provisions of RCW 46.61.506.

(3) If, following his arrest, the person arrested refuses upon the request of a law enforcement officer to submit to a chemical test of his breath, after being informed that his refusal will result in the revocation or denial of his privilege to drive, no test shall be given. The department of licensing, upon the receipt of a sworn report of the law enforcement officer that he had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle upon the public highways of this state while under the influence of intoxicating liquor and that the person had refused to submit to the test upon the request of the law enforcement officer after being informed that such refusal would result in the revocation or denial of his privilege to drive, shall revoke his license or permit to drive or any nonresident operating privilege. If the person is a resident without a license or permit to operate a motor vehicle in this state, the department shall deny to the person the issuance of a license or permit for a period of six months after the date of the alleged violation, subject to review as hereinafter provided.

(4) Upon revoking the license or permit to drive or the nonresident operating privilege of any person, or upon determining that the issuance of a license or permit shall be denied to the person, as hereinbefore in this section directed, the department shall immediately notify the person involved in writing by personal service or by registered or certified mail of its decision and the grounds therefor, and of his right to a hearing, specifying the steps he must take to obtain a hearing. The person upon receiving such notice may, in writing and within ten days therefrom request a formal hearing. Upon receipt of such request, the department shall afford him an opportunity for a hearing as provided in RCW 46.20.329 and 46.20.332. The scope of such hearing for the purposes of this section shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle upon the public highways of this state while under the influence of intoxicating liquor, whether the person was placed under arrest and whether he refused to submit to the test upon request of the officer after having been informed that such refusal would result in the revocation or denial of his privilege to drive. The department shall order that the revocation or determination that there should be a denial of issuance either be rescinded or sustained. Any decision by the department revoking a person's driving privilege shall be stayed and shall not take effect while a formal hearing is pending as herein provided or during the pendency of a subsequent appeal to superior court: *Provided*, That this stay shall be effective only so long as there is no conviction for a moving violation or no finding that the person has committed a traffic infraction which is a moving violation during pendency of the hearing and appeal.

(5) If the revocation or determination that there should be a denial of issuance is sustained after such a hearing, the person whose license, privilege, or permit is so affected shall have the right to file a petition in the superior court of the county wherein he resides, or, if a nonresident of this state, where the charge arose, to review the final order of revocation or denial by the department in the manner provided in RCW 46.20.334.

(6) When it has been finally determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been revoked, the department shall give information in

writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he has a license. [1979 ex.s. c 136 § 59; 1979 c 158 § 151; 1975 1st ex.s. c 287 § 4; 1969 c 1 § 1 (Initiative Measure No. 242 § 1).]

Reviser's note: (1) RCW 46.20.308 was amended twice during the 1979 extraordinary session of the legislature, each without reference to the other. The amendment by 1979 ex.s. c 136 was not to be effective until July 1, 1980. However the effective date of 1979 ex.s. c 136 was delayed until January 1, 1981, by 1980 c 128 § 9; until then, 1979 ex.s. c 176 controls.

For rule of construction concerning sections amended more than once at the same session, see RCW 1.12.025.

* (2) In the last sentence of subsection (1), "this section" is herein substituted for "section 5 of this 1975 amendatory act," thereby correcting this internal reference consistent with the action of the legislature which deleted section 1 of the bill and renumbered the remaining sections accordingly.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Severability—1969 c 1: See RCW 46.20.911.

Liability of medical personnel withdrawing blood: RCW 46.61.508.

46.20.311 Duration of suspension or revocation—Conditions for reissuance or renewal. (Effective until January 1, 1981.) (1) The department shall not suspend a driver's license or privilege to drive a motor vehicle on the public highways for a fixed period of more than one year, except as permitted under RCW 46.20.342. Whenever the license of any person is suspended by reason of a conviction or pursuant to RCW 46.20.291, such suspension shall remain in effect and the department shall not issue to such person any new or renewal of license until such person shall pay a reinstatement fee of ten dollars and shall give and thereafter maintain proof of financial responsibility for the future as provided in chapter 46.29 RCW.

(2) Any person whose license or privilege to drive a motor vehicle on the public highways has been revoked shall not be entitled to have such license or privilege renewed or restored unless the revocation was for a cause which has been removed, except that after the expiration of six months in cases of revocation for refusal to submit to a chemical test under the provisions of RCW 46.20.308, and in all other revocation cases after the expiration of one year from the date on which the revoked license was surrendered to and received by the department, such person may make application for a new license as provided by law together with an additional fee in the amount of ten dollars, but the department shall not then issue a new license unless it is satisfied after investigation of the driving ability of such person that it will be safe to grant the privilege of driving a motor vehicle on the public highways, and until such person shall give and thereafter maintain proof of financial responsibility for the future as provided in chapter 46.29 RCW. [1973 1st ex.s. c 36 § 1; 1969 c 1 § 2 (Initiative Measure No. 242 § 2); 1967 c 167 § 5; 1965 ex.s. c 121 § 27.]

46.20.311 Duration of suspension or revocation—Conditions for reissuance or renewal. (Effective January 1, 1981.) (1) The department shall not suspend a driver's license or privilege to drive a motor vehicle on the public highways for a fixed period of more than one year, except as permitted under RCW 46.20.342. Whenever the

license of any person is suspended by reason of a conviction, a finding that a traffic infraction has been committed, or pursuant to RCW 46.20.291, such suspension shall remain in effect and the department shall not issue to such person any new or renewal of license until such person shall pay a reinstatement fee of ten dollars and shall give and thereafter maintain proof of financial responsibility for the future as provided in chapter 46.29 RCW.

(2) Any person whose license or privilege to drive a motor vehicle on the public highways has been revoked shall not be entitled to have such license or privilege renewed or restored unless the revocation was for a cause which has been removed, except that after the expiration of six months in cases of revocation for refusal to submit to a chemical test under the provisions of RCW 46.20.308 as now or hereafter amended, and in all other revocation cases after the expiration of one year from the date on which the revoked license was surrendered to and received by the department, such person may make application for a new license as provided by law together with an additional fee in the amount of ten dollars, but the department shall not then issue a new license unless it is satisfied after investigation of the driving ability of such person that it will be safe to grant the privilege of driving a motor vehicle on the public highways, and until such person shall give and thereafter maintain proof of financial responsibility for the future as provided in chapter 46.29 RCW. [1979 ex.s. c 136 § 60; 1973 1st ex.s. c 36 § 1; 1969 c 1 § 2 (Initiative Measure No. 242 § 2); 1967 c 167 § 5; 1965 ex.s. c 121 § 27.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Effective date—1969 c 1: See note following RCW 46.20.308.

Severability—1969 c 1: See RCW 46.20.911.

46.20.329 Formal hearing—Time and place—Notice—Stay of suspension or revocation pending hearing or subsequent appeal—Exception—Hearing officers. (Effective until January 1, 1981.) Upon receiving a request for a formal hearing as provided in RCW 46.20.328, the department shall fix a time and place for hearing as early as may be arranged in the county where the applicant or licensee resides, and shall give ten days' notice of the hearing to the applicant or licensee, except that the hearing may be set for a different place with the concurrence of the applicant or licensee and the period of notice may be waived.

Any decision by the department suspending or revoking a person's driving privilege shall be stayed and shall not take effect while a formal hearing is pending as herein provided or during the pendency of a subsequent appeal to superior court: *Provided*, That this stay shall be effective only so long as there is no conviction of a moving violation during pendency of hearing and appeal: *Provided further*, That nothing in this section shall be construed as prohibiting the department from seeking an order setting aside the stay during the pendency of such appeal in those cases where the action of the department is based upon physical or mental incapacity, or a failure

to successfully complete an examination required by this chapter.

A formal hearing shall be conducted by the director or by a referee or hearing board appointed by him from officers or employees of the department. Such referee or hearing board may be authorized by the director to make final determinations regarding the issuance, denial, or suspension, or revocation of a license. [1972 ex.s. c 29 § 1; 1965 ex.s. c 121 § 36.]

46.20.329 Formal hearing—Time and place—Notice—Stay of suspension or revocation pending hearing or subsequent appeal—Exception—Hearing officers. (Effective January 1, 1981.) Upon receiving a request for a formal hearing as provided in RCW 46.20.328, the department shall fix a time and place for hearing as early as may be arranged in the county where the applicant or licensee resides, and shall give ten days' notice of the hearing to the applicant or licensee, except that the hearing may be set for a different place with the concurrence of the applicant or licensee and the period of notice may be waived.

Any decision by the department suspending or revoking a person's driving privilege shall be stayed and shall not take effect while a formal hearing is pending as herein provided or during the pendency of a subsequent appeal to superior court: *Provided*, That this stay shall be effective only so long as there is no conviction of a moving violation or a finding that the person has committed a traffic infraction which is a moving violation during pendency of hearing and appeal: *Provided further*, That nothing in this section shall be construed as prohibiting the department from seeking an order setting aside the stay during the pendency of such appeal in those cases where the action of the department is based upon physical or mental incapacity, or a failure to successfully complete an examination required by this chapter.

A formal hearing shall be conducted by the director or by a referee or hearing board appointed by him from officers or employees of the department. Such referee or hearing board may be authorized by the director to make final determinations regarding the issuance, denial, or suspension, or revocation of a license. [1979 ex.s. c 136 § 61; 1972 ex.s. c 29 § 1; 1965 ex.s. c 121 § 36.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.20.342 Driving while license suspended or revoked—Penalty—Extension of suspension or revocation period. (Effective until January 1, 1981.) (1) Any person who drives a motor vehicle on any public highway of this state at a time when his privilege so to do is suspended or revoked in this or any other state or when his policy of insurance or bond, when required under this chapter, shall have been canceled or terminated, shall be guilty of a misdemeanor. Upon the first conviction therefor, he shall be punished by imprisonment for not less than ten days nor more than six months. Upon the second such conviction therefor, he shall be punished by imprisonment for not less than ninety days nor more

than one year. Upon the third such conviction therefor, he shall be punished by imprisonment for one year. There may also be imposed in connection with each such conviction a fine of not more than five hundred dollars.

(2) The department upon receiving a record of conviction of any person or upon receiving an order by any juvenile court or any duly authorized court officer of the conviction of any juvenile under this section upon a charge of driving a vehicle while the license of such person is under suspension shall extend the period of such suspension for an additional like period and if the conviction was upon a charge of driving while a license was revoked the department shall not issue a new license for an additional period of one year from and after the date such person would otherwise have been entitled to apply for a new license. [1979 ex.s. c 74 § 1; 1969 c 27 § 2. Prior: 1967 ex.s. c 145 § 52; 1967 c 167 § 7; 1965 ex.s. c 121 § 43.]

46.20.342 Driving while license suspended or revoked—Penalty—Extension of suspension or revocation period. (Effective January 1, 1981.) (1) Any person who drives a motor vehicle on any public highway of this state at a time when his privilege so to do is suspended or revoked in this or any other state or when his policy of insurance or bond, when required under this chapter, shall have been canceled or terminated, shall be guilty of a misdemeanor: *Provided*, That the offenses described in RCW 46.20.021 and 46.20.190, as now or hereafter amended, are lesser included offenses within the offense described by this section. Upon the first conviction therefor, he shall be punished by imprisonment for not less than ten days nor more than six months. Upon the second such conviction therefor, he shall be punished by imprisonment for not less than ninety days nor more than one year. Upon the third such conviction therefor, he shall be punished by imprisonment for one year. There may also be imposed in connection with each such conviction a fine of not more than five hundred dollars.

(2) The department upon receiving a record of conviction of any person or upon receiving an order by any juvenile court or any duly authorized court officer of the conviction of any juvenile under this section upon a charge of driving a vehicle while the license of such person is under suspension shall extend the period of such suspension for an additional like period and if the conviction was upon a charge of driving while a license was revoked the department shall not issue a new license for an additional period of one year from and after the date such person would otherwise have been entitled to apply for a new license. [1980 c 148 § 3. Prior: 1979 ex.s. c 136 § 62; 1979 ex.s. c 74 § 1; 1969 c 27 § 2; prior: 1967 ex.s. c 145 § 52; 1967 c 167 § 7; 1965 ex.s. c 121 § 43.]

Effective date—1980 c 148: See note following RCW 46.10.090.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.20.440 Operation of vehicles requiring special skills—Additional examination and special license endorsement required—Exemption—Instruction permit, fee. It is unlawful for a person to operate upon the public highway any motor-truck, truck-tractor, school bus, auto stage, for-hire vehicle, or private carrier bus as defined by RCW 46.04.310, 46.04.650, 46.04.521, 46.04.050, 46.04.190, and 46.04.416 respectively, found by the director to require special operating skills as hereafter provided, unless the driver has successfully completed an examination, in addition to the examinations in RCW 46.20.130, demonstrating the ability of the driver to operate and maneuver the vehicle or vehicles upon the public highway in a manner not to jeopardize the safety of persons or property: *Provided*, That this requirement does not apply to any person hauling farm commodities from the farm to the processing plant or shipping point, not to exceed a radius of fifty miles from the farm.

The director may issue an instruction permit to an applicant for a period not to exceed one hundred eighty days. This instruction permit may be renewed for one additional one hundred eighty-day period. The director shall collect a two dollars and fifty cent fee for the instruction permit or renewal, and the fee shall be deposited in the highway safety fund.

The director shall upon completion of such tests specially endorse the driver's license of the applicant to indicate the type of vehicle qualifications met. [1980 c 114 § 1; 1971 ex.s. c 126 § 1; 1970 ex.s. c 100 § 4; 1969 ex.s. c 68 § 1; 1967 ex.s. c 20 § 1.]

Effective date—1967 ex.s. c 20: "Sections 1, 3, and 4 of this amendatory act shall be effective January 1, 1968." [1967 ex.s. c 20 § 5.]

Age limit for school bus drivers and drivers of for-hire vehicles: RCW 46.20.045.

Chapter 46.29

FINANCIAL RESPONSIBILITY

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- 46.29.600 Duration of proof—When proof may be canceled or returned. (Effective January 1, 1981.)

ADMINISTRATION

46.29.050 Driving record and evidence of ability to respond in damages to be furnished—Fees. (Effective until January 1, 1981.) (1) The department shall upon request furnish any person or his attorney a certified abstract of his driving record, which abstract shall include enumeration of any motor vehicle accidents in which such person has been involved. Such abstract shall indicate 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; and reference to any convictions of said person for violation of the motor vehicle laws as reported to the department, and a record of any vehicles registered in the name of such person. The department shall collect for each abstract the sum of one dollar and fifty cents which shall be deposited in the highway safety fund.

(2) The department shall upon request furnish any person who may have been injured in person or property by any motor vehicle, with an abstract of all information of record in the department pertaining to the evidence of the ability of any driver or owner of any motor vehicle to respond in damages. The department shall collect for each abstract the sum of one dollar and fifty cents which shall be deposited in the highway safety fund. [1969 ex.s. c 40 § 1; 1967 c 174 § 1; 1963 c 169 § 5.]

46.29.050 Driving record and evidence of ability to respond in damages to be furnished—Fees. (Effective January 1, 1981.) (1) The department shall upon request furnish any person or his attorney a certified abstract of his driving record, which abstract shall include enumeration of any motor vehicle accidents in which such person has been involved. Such abstract shall indicate 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; and reference to any convictions of said person for violation of the motor vehicle laws as reported to the department; and reference to any findings that the person has committed a traffic infraction which have been reported to the department; and a record of any vehicles registered in the name of such person. The department shall collect for each abstract the sum of one dollar and fifty cents which shall be deposited in the highway safety fund.

(2) The department shall upon request furnish any person who may have been injured in person or property by any motor vehicle, with an abstract of all information of record in the department pertaining to the evidence of the ability of any driver or owner of any motor vehicle to respond in damages. The department shall collect for each abstract the sum of one dollar and fifty cents which

shall be deposited in the highway safety fund. [1979 ex.s. c 136 § 63; 1969 ex.s. c 40 § 1; 1967 c 174 § 1; 1963 c 169 § 5.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Effective date—1967 c 174: "Sections 1, 2, 3 and 4 of this amendatory act shall become effective July 1, 1967." [1967 c 174 § 7.]
Abstract of operating record to be furnished insurance company: RCW 46.52.130.

SECURITY FOLLOWING ACCIDENT

46.29.090 Requirements as to policy or bond. (Effective September 1, 1980.) (1) No policy or bond is effective under RCW 46.29.080 unless issued by an insurance company or surety company authorized to do business in this state, except as provided in subsection (2) of this section, nor unless such policy or bond is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than twenty-five thousand dollars because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, to a limit of not less than fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and if the accident has resulted in injury to, or destruction of, property to a limit of not less than ten thousand dollars because of injury to or destruction of property of others in any one accident.

(2) No policy or bond is effective under RCW 46.29.080 with respect to any vehicle which was not registered in this state or was a vehicle which was registered elsewhere than in this state at the effective date of the policy or bond or the most recent renewal thereof, unless the insurance company or surety company issuing such policy or bond is authorized to do business in this state, or if said company is not authorized to do business in this state, unless it executes a power of attorney authorizing the director of licensing to accept service on its behalf of notice or process in any action upon such policy or bond arising out of such accident.

(3) The department may rely upon the accuracy of the information in a required report of an accident as to the existence of insurance or a bond unless and until the department has reason to believe that the information is erroneous. [1980 c 117 § 3; 1979 c 158 § 155; 1967 ex.s. c 3 § 1; 1963 c 169 § 9.]

Effective date—1980 c 117: See note following RCW 48.22.030.

Effective date—1967 ex.s. c 3: "This amendatory act shall take effect on July 1, 1968." [1967 ex.s. c 3 § 6.]

PROOF OF FINANCIAL RESPONSIBILITY FOR THE FUTURE

46.29.260 Meaning of "proof of financial responsibility for the future." (Effective September 1, 1980.) The term "proof of financial responsibility for the future" as used in this chapter means: Proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of said proof, arising out of the ownership, maintenance, or use of a vehicle of a

type subject to registration under the laws of this state, in the amount of twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, and, subject to said limit for one person, in the amount of fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and in the amount of ten thousand dollars because of injury to or destruction of property of others in any one accident. Wherever used in this chapter the terms "proof of financial responsibility" or "proof" shall be synonymous with the term "proof of financial responsibility for the future." [1980 c 117 § 4; 1967 ex.s. c 3 § 2; 1963 c 169 § 26.]

Effective date—1980 c 117: See note following RCW 48.22.030.

Effective date—1967 ex.s. c 3: See note following RCW 46.29.090.

46.29.280 Suspension continues until proof furnished. (Effective until January 1, 1981.) Whenever, under any law of this state, the license of any person is suspended or revoked by reason of a conviction or a forfeiture of bail, the suspension or revocation hereinbefore required shall remain in effect and the department shall not issue to such person any new or renewal of license until permitted under the motor vehicle laws of this state, and not then unless and until such person shall give and thereafter maintain proof of financial responsibility for the future. [1963 c 169 § 28.]

46.29.280 Suspension continues until proof furnished. (Effective January 1, 1981.) Whenever, under any law of this state, the license of any person is suspended or revoked by reason of a conviction, forfeiture of bail, or finding that a traffic infraction has been committed, the suspension or revocation hereinbefore required shall remain in effect and the department shall not issue to such person any new or renewal of license until permitted under the motor vehicle laws of this state, and not then unless and until such person shall give and thereafter maintain proof of financial responsibility for the future. [1979 ex.s. c 136 § 64; 1963 c 169 § 28.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.29.300 Action in respect to nonresidents. (Effective until January 1, 1981.) Whenever the department suspends or revokes a nonresident's driving privilege by reason of a conviction or forfeiture of bail, such privilege shall remain so suspended or revoked unless such person shall have previously given or shall immediately give and thereafter maintain proof of financial responsibility for the future. [1967 c 32 § 39; 1963 c 169 § 30.]

46.29.300 Action in respect to nonresidents. (Effective January 1, 1981.) Whenever the department suspends or revokes a nonresident's driving privilege by reason of a conviction, forfeiture of bail, or finding that a traffic infraction has been committed such privilege shall remain so suspended or revoked unless such person shall have previously given or shall immediately give and

thereafter maintain proof of financial responsibility for the future. [1979 ex.s. c 136 § 65; 1967 c 32 § 39; 1963 c 169 § 30.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.29.390 Payments sufficient to satisfy requirements. (Effective September 1, 1980.) (1) Judgments herein referred to are, for the purpose of this chapter only, deemed satisfied:

(a) When twenty-five thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of one person as the result of any one accident; or

(b) When, subject to such limit of twenty-five thousand dollars because of bodily injury to or death of one person, the sum of fifty thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of two or more persons as the result of any one accident; or

(c) When ten thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount because of injury to or destruction of property of others as a result of any one accident.

(2) Payments made in settlements of any claims because of bodily injury, death, or property damage arising from such accident shall be credited in reduction of the amounts provided for in this section. [1980 c 117 § 5; 1979 c 61 § 14; 1967 ex.s. c 3 § 3; 1963 c 169 § 39.]

Effective date—1980 c 117: See note following RCW 48.22.030.

Effective date—1967 ex.s. c 3: See note following RCW 46.29.090.

46.29.490 "Motor vehicle liability policy" defined. (Effective September 1, 1980.) (1) Certification. A "motor vehicle liability policy" as said term is used in this chapter means an "owner's policy" or an "operator's policy" of liability insurance, certified as provided in RCW 46.29.460 or 46.29.470 as proof of financial responsibility for the future, and issued, except as otherwise provided in RCW 46.29.470, by an insurance carrier duly authorized to transact business in this state, to or for the benefit of the person named in the policy as insured.

(2) Owner's policy. Such owner's policy of liability insurance:

(a) Shall designate by explicit description or by appropriate reference all vehicles with respect to which coverage is to be granted by the policy; and

(b) Shall insure the person named therein and any other person, as insured, using any such vehicle or vehicles with the express or implied permission of such named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance, or use of such vehicle or vehicles within the United States of America or the Dominion of Canada, subject to limits exclusive of interest and costs, with respect to each such vehicle as follows: Twenty-five thousand dollars because of bodily injury to or death of one person in any one accident and, subject to said limit for

one person, fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and ten thousand dollars because of injury to or destruction of property of others in any one accident.

(3) Operator's policy. Such operator's policy of liability insurance shall insure the person named as insured therein against loss from the liability imposed upon him by law for damages arising out of the use by him of any motor vehicle not owned by him, within the same territorial limits and subject to the same limits of liability as are set forth above with respect to an owner's policy of liability insurance.

(4) Required statements in policies. Such motor vehicle liability policy shall state the name and address of the named insured, the coverage afforded by the policy, the premium charged therefor, the policy period, and the limits of liability, and shall contain an agreement or be endorsed that insurance is provided under the policy in accordance with the coverage defined in this chapter as respects bodily injury and death or property damage, or both, and is subject to all the provisions of this chapter.

(5) Policy need not insure workers' compensation, etc. Such motor vehicle liability policy need not insure any liability under any workers' compensation law nor any liability on account of bodily injury or death of an employee of the insured while engaged in the employment, other than domestic, of the insured, or while engaged in the operation, maintenance, or repair of any such vehicle nor any liability for damage to property owned by, rented to, in charge of, or transported by the insured.

(6) Provisions incorporated in policy. Every motor vehicle liability policy is subject to the following provisions which need not be contained therein:

(a) The liability of the insurance carrier with respect to the insurance required by this chapter becomes absolute whenever injury or damage covered by said motor vehicle liability policy occurs; said policy may not be canceled or annulled as to such liability by any agreement between the insurance carrier and the insured after the occurrence of the injury or damage; no statement made by the insured or on his behalf and no violation of said policy defeats or voids said policy.

(b) The satisfaction by the insured of a judgment for such injury or damage shall not be a condition precedent to the right or duty of the insurance carrier to make payment on account of such injury or damage.

(c) The insurance carrier may settle any claim covered by the policy, and if such settlement is made in good faith, the amount thereof is deductible from the limits of liability specified in subdivision (b) of subsection (2) of this section.

(d) The policy, the written application therefor, if any, and any rider or endorsement which does not conflict with the provisions of this chapter constitutes the entire contract between the parties.

(7) Excess or additional coverage. Any policy which grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle

liability policy, and such excess or additional coverage is not subject to the provisions of this chapter. With respect to a policy which grants such excess or additional coverage the term "motor vehicle liability policy" applies only to that part of the coverage which is required by this section.

(8) Reimbursement provision permitted. Any motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for the provisions of this chapter.

(9) Proration of insurance permitted. Any motor vehicle liability policy may provide for the prorating of the insurance thereunder with other valid and collectible insurance.

(10) Multiple policies. The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more insurance carrier which policies together meet such requirements.

(11) Binders. Any binder issued pending the issuance of a motor vehicle liability policy is deemed to fulfill the requirements for such a policy. [1980 c 117 § 6; 1967 ex.s. c 3 § 4; 1963 c 169 § 49.]

Effective date—1980 c 117: See note following RCW 48.22.030.

Effective date—1967 ex.s. c 3: See note following RCW 46.29.090.

46.29.550 Money or securities as proof. (Effective September 1, 1980.) Proof of financial responsibility may be evidenced by the certificate of the state treasurer that the person named therein has deposited with him sixty thousand dollars in cash, or securities such as may legally be purchased by savings banks or for trust funds of a market value of sixty thousand dollars. The state treasurer shall not accept any such deposit and issue a certificate therefor and the department shall not accept such certificate unless accompanied by evidence that there are no unsatisfied judgments of any character against the depositor in the county where the depositor resides. [1980 c 117 § 7; 1967 ex.s. c 3 § 5; 1963 c 169 § 55.]

Effective date—1980 c 117: See note following RCW 48.22.030.

Effective date—1967 ex.s. c 3: See note following RCW 46.29.090.

46.29.600 Duration of proof—When proof may be canceled or returned. (Effective until January 1, 1981.)

(1) The department shall upon request consent to the immediate cancellation of any bond or certificate of insurance, or the department shall direct and the state treasurer shall return to the person entitled thereto any money or securities deposited pursuant to this chapter as proof of financial responsibility, or the department shall waive the requirement of filing proof, in any of the following events:

(a) At any time after three years from the date such proof was required when, during the three-year period preceding the request, the department has not received record of a conviction or a forfeiture of bail which would

require or permit the suspension or revocation of the license of the person by or for whom such proof was furnished; or

(b) In the event of the death of the person on whose behalf such proof was filed or the permanent incapacity of such person to operate a motor vehicle; or

(c) In the event the person who has given proof surrenders his license to the department;

(2) Provided, however, that the department shall not consent to the cancellation of any bond or the return of any money or securities in the event any action for damages upon a liability covered by such proof is then pending or any judgment upon any such liability is then unsatisfied, or in the event the person who has filed such bond or deposited such money or securities has within one year immediately preceding such request been involved as a driver or owner in any motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the nonexistence of such facts, or that he has been released from all of his liability, or has been finally adjudicated not to be liable, for such injury or damage, shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the department.

(3) Whenever any person whose proof has been canceled or returned under subdivision (1)(c) of this section applies for a license within a period of three years from the date proof was originally required, any such application shall be refused unless the applicant shall reestablish such proof for the remainder of such three-year period. [1963 c 169 § 60.]

46.29.600 Duration of proof—When proof may be canceled or returned. (Effective January 1, 1981.) (1) The department shall upon request consent to the immediate cancellation of any bond or certificate of insurance, or the department shall direct and the state treasurer shall return to the person entitled thereto any money or securities deposited pursuant to this chapter as proof of financial responsibility, or the department shall waive the requirement of filing proof, in any of the following events:

(a) At any time after three years from the date such proof was required when, during the three-year period preceding the request, the department has not received record of a conviction, forfeiture of bail, or finding that a traffic infraction has been committed which would require or permit the suspension or revocation of the license of the person by or for whom such proof was furnished; or

(b) In the event of the death of the person on whose behalf such proof was filed or the permanent incapacity of such person to operate a motor vehicle; or

(c) In the event the person who has given proof surrenders his license to the department;

(2) Provided, however, that the department shall not consent to the cancellation of any bond or the return of any money or securities in the event any action for damages upon a liability covered by such proof is then pending or any judgment upon any such liability is then unsatisfied, or in the event the person who has filed such

bond or deposited such money or securities has within one year immediately preceding such request been involved as a driver or owner in any motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the nonexistence of such facts, or that he has been released from all of his liability, or has been finally adjudicated not to be liable, for such injury or damage, shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the department.

(3) Whenever any person whose proof has been canceled or returned under subdivision (1)(c) of this section applies for a license within a period of three years from the date proof was originally required, any such application shall be refused unless the applicant shall reestablish such proof for the remainder of such three-year period. [1979 ex.s. c 136 § 66; 1963 c 169 § 60.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

**Chapter 46.32
VEHICLE INSPECTION**

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| Sections | |
| 46.32.010 | Inspection authorized—Stations—Duties of state patrol—Penalties. (Effective until January 1, 1981.) |
| 46.32.010 | Inspection authorized—Stations—Duties of state patrol—Penalties. (Effective January 1, 1981.) |
| 46.32.050 | Prohibited practices—Penalty. (Effective until January 1, 1981.) |
| 46.32.050 | Prohibited practices—Penalty. (Effective January 1, 1981.) |

46.32.010 Inspection authorized—Stations—Duties of state patrol—Penalties. (Effective until January 1, 1981.) The chief of the Washington state patrol is hereby empowered to constitute, erect, operate and maintain, throughout the state of Washington, stations for the inspection of vehicle equipment, and to set a date, at a reasonable time subsequent to the installation of such stations, when inspection of vehicles shall commence, and it shall be unlawful for any vehicle to be operated over the public highways of this state unless and until it has been approved periodically as to equipment. The chief of the Washington state patrol shall establish periods of vehicle equipment inspection. In the event of any such inspection, the same shall be in charge of a responsible employee of the chief of the Washington state patrol, who shall be duly authorized as a police officer and who shall have authority to secure and withhold, with written notice to the director of licensing, the certificate of license registration and license plates of any vehicle found to be defective in equipment so as to be unsafe or unfit to be operated upon the highways of this state, and it shall be unlawful for any person to operate such vehicle unless and until the same has been placed in a condition satisfactory to subsequent equipment inspection; the police officer in charge of such vehicle equipment inspection station shall grant to the operator of such defective vehicle the privilege to move

such vehicle to a place for repair under such restrictions as may be reasonably necessary.

In the event any insignia, sticker or other marker should be adopted to be displayed upon vehicles in connection with the inspection of vehicle equipment, the same shall be displayed as required by the rules and regulations of the chief of the Washington state patrol and it shall be a gross misdemeanor for any person to mutilate, destroy, remove or otherwise interfere with the display thereof.

Any person who refuses to have his motor vehicle examined, or, after having had it examined, refuses to place a certificate of approval, or a certificate of condemnation, if issued, upon his windshield, or who fraudulently obtains a certificate of approval, or who refuses to place his motor vehicle in proper condition after having had the same examined, or who, in any manner, fails to conform to the provisions of this chapter, shall be guilty of a gross misdemeanor.

Any person who performs false or improvised repairs, or repairs in any manner not in accordance with acceptable and customary repair practices, upon a motor vehicle, shall be guilty of a gross misdemeanor. [1979 c 158 § 156; 1967 c 32 § 48; 1961 c 12 § 46.32.010. Prior: 1947 c 267 § 1; 1945 c 44 § 1; 1937 c 189 § 7; Rem. Supp. 1947 § 6360-7.]

46.32.010 Inspection authorized—Stations—Duties of state patrol—Penalties. (Effective January 1, 1981.) The chief of the Washington state patrol is hereby empowered to constitute, erect, operate, and maintain, throughout the state of Washington, stations for the inspection of vehicle equipment, and to set a date, at a reasonable time subsequent to the installation of such stations, when inspection of vehicles shall commence, and it shall be unlawful for any vehicle to be operated over the public highways of this state unless and until it has been approved periodically as to equipment. The chief of the Washington state patrol shall establish periods of vehicle equipment inspection. In the event of any such inspection, the same shall be in charge of a responsible employee of the chief of the Washington state patrol, who shall be duly authorized as a police officer and who shall have authority to secure and withhold, with written notice to the director of licensing, the certificate of license registration and license plates of any vehicle found to be defective in equipment so as to be unsafe or unfit to be operated upon the highways of this state, and it shall be unlawful for any person to operate such vehicle unless and until the same has been placed in a condition satisfactory to subsequent equipment inspection; the police officer in charge of such vehicle equipment inspection station shall grant to the operator of such defective vehicle the privilege to move such vehicle to a place for repair under such restrictions as may be reasonably necessary.

In the event any insignia, sticker, or other marker should be adopted to be displayed upon vehicles in connection with the inspection of vehicle equipment, the same shall be displayed as required by the rules and regulations of the chief of the Washington state patrol

and it is a traffic infraction for any person to mutilate, destroy, remove, or otherwise interfere with the display thereof.

It is a traffic infraction for any person to refuse to have his motor vehicle examined, or, after having had it examined, to refuse to place a certificate of approval, or a certificate of condemnation, if issued, upon his windshield, or to fraudulently obtain a certificate of approval, or to refuse to place his motor vehicle in proper condition after having had the same examined, or to, in any manner, fail to conform to the provisions of this chapter.

It is a traffic infraction for any person to perform false or improvised repairs, or repairs in any manner not in accordance with acceptable and customary repair practices, upon a motor vehicle. [1979 ex.s. c 136 § 67; 1979 c 158 § 156; 1967 c 32 § 48; 1961 c 12 § 46.32.010. Prior: 1947 c 267 § 1; 1945 c 44 § 1; 1937 c 189 § 7; Rem. Supp. 1947 § 6360-7.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.32.050 Prohibited practices—Penalty. (Effective until January 1, 1981.) It shall be unlawful for any person employed by the chief of the Washington state patrol or by any municipality or other political subdivision, in any vehicle equipment inspection station, to directly or indirectly, or in any manner whatsoever, order, direct, recommend or influence the correction of vehicle equipment defects by any person or persons whomsoever.

It shall be unlawful for any person employed by the chief of the Washington state patrol or by any municipality or other political subdivision, while in or about any vehicle equipment inspection station, to perform any repair or adjustment upon any vehicle or any equipment or appliance of any vehicle whatsoever.

It shall be unlawful for any person to solicit in any manner the repair to any vehicle or the adjustment of any equipment or appliance of any vehicle, upon the property of any vehicle equipment inspection station or upon any public highway adjacent thereto.

Any person violating any of the provisions of this section shall be guilty of a gross misdemeanor. [1961 c 12 § 46.32.050. Prior: 1945 c 44 § 5; 1937 c 189 § 11; Rem. Supp. 1945 § 6360-11.]

46.32.050 Prohibited practices—Penalty. (Effective January 1, 1981.) It shall be unlawful for any person employed by the chief of the Washington state patrol or by any municipality or other political subdivision, in any vehicle equipment inspection station, to directly or indirectly, or in any manner whatsoever, order, direct, recommend, or influence the correction of vehicle equipment defects by any person or persons whomsoever.

It shall be unlawful for any person employed by the chief of the Washington state patrol or by any municipality or other political subdivision, while in or about any vehicle equipment inspection station, to perform any repair or adjustment upon any vehicle or any equipment or appliance of any vehicle whatsoever.

It shall be unlawful for any person to solicit in any manner the repair to any vehicle or the adjustment of

any equipment or appliance of any vehicle, upon the property of any vehicle equipment inspection station or upon any public highway adjacent thereto.

Violation of the provisions of this section is a traffic infraction. [1979 ex.s. c 136 § 68; 1961 c 12 § 46.32-.050. Prior: 1945 c 44 § 5; 1937 c 189 § 11; Rem. Supp. 1945 § 6360-11.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Chapter 46.37

VEHICLE LIGHTING AND OTHER EQUIPMENT

Sections

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| 46.37.005 | Commission on equipment—Powers and duties. |
| 46.37.010 | Scope and effect of regulations—General penalty. (Effective until January 1, 1981.) |
| 46.37.010 | Scope and effect of regulations—General penalty. (Effective January 1, 1981.) |
| 46.37.188 | Penalty for violation of RCW 46.37.184 through 46.37.188. (Effective until January 1, 1981.) |
| 46.37.188 | Penalty for violation of RCW 46.37.184 through 46.37.188. (Effective January 1, 1981.) |
| 46.37.423 | Pneumatic passenger car tires—Standards—Exception for off-highway use—Penalty. (Effective until January 1, 1981.) |
| 46.37.423 | Pneumatic passenger car tires—Standards—Exception for off-highway use—Penalty. (Effective January 1, 1981.) |
| 46.37.424 | Regrooved tires—Standards—Exception for off-highway use—Penalty. (Effective until January 1, 1981.) |
| 46.37.424 | Regrooved tires—Standards—Exception for off-highway use—Penalty. (Effective January 1, 1981.) |
| 46.37.425 | Authority of state commission on equipment with reference to tires—Rules and regulations—Penalty. (Effective until January 1, 1981.) |
| 46.37.425 | Authority of state commission on equipment with reference to tires—Rules and regulations—Penalty. (Effective January 1, 1981.) |
| 46.37.600 | Liability of operator and/or owner or lessee for violations. |

46.37.005 Commission on equipment—Powers and duties.

Towing operators, appointment of: RCW 46.61.567.

46.37.010 Scope and effect of regulations—General penalty. (Effective until January 1, 1981.) (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 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.]

46.37.010 Scope and effect of regulations—General penalty. (Effective January 1, 1981.) (1) It is a traffic infraction 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 traffic infraction 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. [1979 ex.s. c 136 § 69; 1977 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.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Severability—1977 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 ex.s. c 355 § 57.]

Effective date—1963 c 154: "This act shall take effect on January 1, 1964." [1963 c 154 § 32.]

46.37.188 Penalty for violation of RCW 46.37.184 through 46.37.188. (Effective until January 1, 1981.) Every violation of RCW 46.37.184, 46.37.185, 46.37.186 or 46.37.187 is a misdemeanor. [1961 c 12 § 46.37.188. Prior: 1953 c 161 § 5. Formerly RCW 46.40.260.]

46.37.188 Penalty for violation of RCW 46.37.184 through 46.37.188. (Effective January 1, 1981.) Every violation of RCW 46.37.184, 46.37.185, 46.37.186, or 46.37.187 is a traffic infraction. [1979 ex.s. c 136 § 70; 1961 c 12 § 46.37.188. Prior: 1953 c 161 § 5. Formerly RCW 46.40.260.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.37.423 Pneumatic passenger car tires—Standards—Exception for off-highway use—Penalty. (Effective until January 1, 1981.) No person, firm or corporation shall sell or offer for sale for use on the public highways of this state any new pneumatic passenger car tire which does not meet the standards established by federal motor vehicle safety standard No. 109, 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 standard No. 109 in effect at the time of manufacture of the tire.

Any person, firm or corporation who shall sell or offer for sale any new pneumatic passenger car tire which does not meet the standards prescribed in this section shall be guilty of a misdemeanor unless such tires are sold for off-highway use, as evidenced by a statement signed by the purchaser at the time of sale certifying that he is not purchasing such tires for use on the public highways of this state. [1971 c 77 § 1.]

46.37.423 Pneumatic passenger car tires—Standards—Exception for off-highway use—Penalty. (Effective January 1, 1981.) No person, firm, or corporation shall sell or offer for sale for use on the public highways of this state any new pneumatic passenger car tire which does not meet the standards established by federal motor vehicle safety standard No. 109, 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 standard No. 109 in effect at the time of manufacture of the tire.

It is a traffic infraction for any person, firm, or corporation to sell or offer for sale any new pneumatic passenger car tire which does not meet the standards prescribed in this section unless such tires are sold for off-highway use, as evidenced by a statement signed by the purchaser at the time of sale certifying that he is not purchasing such tires for use on the public highways of this state. [1979 ex.s. c 136 § 71; 1971 c 77 § 1.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.37.424 Regrooved tires—Standards—Exception for off-highway use—Penalty. (Effective until January 1, 1981.) 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 ex.s. c 355 § 36; 1971 c 77 § 2.]

46.37.424 Regrooved tires—Standards—Exception for off-highway use—Penalty. (Effective January 1, 1981.) 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.

It is a traffic infraction for any person, firm, or corporation to sell or offer for sale any regrooved tire or shall regroove any tire which does not meet the standards prescribed in this section 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. [1979 ex.s. c 136 § 72; 1977 ex.s. c 355 § 36; 1971 c 77 § 2.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Severability—1977 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. (Effective until January 1, 1981.) 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 ex.s. c 355 § 37; 1971 c 77 § 3.]

46.37.425 Authority of state commission on equipment with reference to tires—Rules and regulations—Penalty. (Effective January 1, 1981.) 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.

It is a traffic infraction for any person to operate a vehicle on the public highways of this state, or to sell 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: *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. [1979 ex.s. c 136 § 73; 1977 ex.s. c 355 § 37; 1971 c 77 § 3.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Severability—1977 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.]

46.37.600 Liability of operator and/or owner or lessee for violations. Whenever an act or omission is declared to be unlawful in chapter 46.37 RCW, if the operator of the vehicle is not the owner or lessee of such vehicle, but is so operating or moving the vehicle with the express or implied permission of the owner or lessee, then the operator and/or owner or lessee are both subject to the provisions of this chapter with the primary responsibility to be that of the owner or lessee.

If the person operating the vehicle at the time of the unlawful act or omission is not the owner or lessee of the vehicle, such person is fully authorized to accept the citation and execute the promise to appear on behalf of the owner or lessee. [1980 c 104 § 4; 1969 ex.s. c 69 § 3.]

Chapter 46.44 SIZE, WEIGHT, LOAD

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| 46.44.047 | Excess weight—Logging trucks—Special permits—County or city permits—Fees—Discretion of arresting officer. (Effective January 1, 1981.) |
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46.44.047 Excess weight—Logging trucks—Special permits—County or city permits—Fees—Discretion of arresting officer. (Effective until January 1, 1981.) A three axle truck tractor and a two axle pole trailer combination engaged in the operation of hauling logs may exceed by not more than six thousand eight hundred pounds the legal gross weight of the combination of vehicles when licensed, as permitted by law, for sixty-eight thousand pounds: *Provided,* That the distance between the first and last axle of the vehicles in combination shall have a total wheelbase of not less than thirty-seven feet, and the weight upon two axles spaced less than seven feet apart shall not exceed thirty-three thousand six hundred pounds.

Such additional allowances shall be permitted by a special permit to be issued by the state highway commission valid only on state primary or secondary highways authorized by the state highway commission and under such rules, regulations, terms, and conditions prescribed by the state highway commission. The fee for such special permit shall be fifty dollars for a twelve-month period beginning and ending on April 1st of each calendar year. Permits may be issued at any time, but if issued after July 1st of any year the fee shall be thirty-seven dollars and fifty cents. If issued on or after October 1st the fee shall be twenty-five dollars, and if issued on or after January 1st the fee shall be twelve dollars and fifty cents. A copy of such special permit covering the vehicle involved shall be carried in the cab of the vehicle at all times. Upon the third conviction within the duration of the permit for violation of the terms and conditions of the special permit, the special permit shall be canceled. The vehicle covered by such canceled special permit shall not be eligible for a new special permit until thirty days after the cancellation of the special permit issued to said vehicle. The fee for such renewal shall be at the same rate as set forth in this section which covers the original issuance of such special permit. Each special permit shall be assigned to a three-axle truck tractor in combination with a two-axle pole

trailer. When the highway commission issues a duplicate permit to replace a lost or destroyed permit and where the highway commission transfers a permit, a fee of five dollars shall be charged for each such duplicate issued or each such transfer.

All fees collected hereinabove shall be deposited with the state treasurer and credited to the motor vehicle fund.

Permits involving city streets or county roads or using city streets or county roads to reach or leave state highways, authorized for permit by the state highway department may be issued by the city or county or counties involved. A fee of five dollars for such city or county permit may be assessed by the city or by the board of county commissioners which shall be deposited in the city or county road fund. The special permit provided for herein shall be known as a "log tolerance permit" and shall designate the route or routes to be used, which shall first be approved by the city or county engineer involved. Authorization of additional route or routes may be made at the discretion of the city or county by amending the original permit or by issuing a new permit. Said permits shall be issued on a yearly basis expiring on March 31st of each calendar year. Any person, firm, or corporation who uses any city street or county road for the purpose of transporting logs with weights authorized by state highway log tolerance permits, to reach or leave a state highway route, without first obtaining a city or county permit when required by the city or board of county commissioners shall be subject to the penalties prescribed by RCW 46.44.105. For the purpose of determining gross weight the actual scale weight taken by the officer shall be prima facie evidence of such total gross weight. In the event the gross weight is in excess of the weight permitted by law, the officer may, within his discretion, permit the operator to proceed with his vehicles in combination.

The chief of the state patrol, with the advice of the state highway commission, may make reasonable rules and regulations to aid in the enforcement of the provisions of this section. [1975-'76 2nd ex.s. c 64 § 11; 1973 1st ex.s. c 150 § 2; 1971 ex.s. c 249 § 2; 1961 ex.s. c 21 § 35; 1961 c 12 § 46.44.047. Prior: 1955 c 384 § 19; 1953 c 254 § 10; 1951 c 269 § 31.]

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.

46.44.047 Excess weight—Logging trucks—Special permits—County or city permits—Fees—Discretion of arresting officer. (Effective January 1, 1981.) A three axle truck tractor and a two axle pole trailer combination engaged in the operation of hauling logs may exceed by not more than six thousand eight hundred pounds the legal gross weight of the combination of vehicles when licensed, as permitted by law, for sixty-eight thousand pounds: *Provided*, That the distance between the first and last axle of the vehicles in combination shall have a total wheelbase of not less than thirty-seven feet, and the weight upon two axles spaced

less than seven feet apart shall not exceed thirty-three thousand six hundred pounds.

Such additional allowances shall be permitted by a special permit to be issued by the department of transportation valid only on state primary or secondary highways authorized by the department and under such rules, regulations, terms, and conditions prescribed by the department. The fee for such special permit shall be fifty dollars for a twelve-month period beginning and ending on April 1st of each calendar year. Permits may be issued at any time, but if issued after July 1st of any year the fee shall be thirty-seven dollars and fifty cents. If issued on or after October 1st the fee shall be twenty-five dollars, and if issued on or after January 1st the fee shall be twelve dollars and fifty cents. A copy of such special permit covering the vehicle involved shall be carried in the cab of the vehicle at all times. Upon the third offense within the duration of the permit for violation of the terms and conditions of the special permit, the special permit shall be canceled. The vehicle covered by such canceled special permit shall not be eligible for a new special permit until thirty days after the cancellation of the special permit issued to said vehicle. The fee for such renewal shall be at the same rate as set forth in this section which covers the original issuance of such special permit. Each special permit shall be assigned to a three-axle truck tractor in combination with a two-axle pole trailer. When the department issues a duplicate permit to replace a lost or destroyed permit and where the department transfers a permit, a fee of five dollars shall be charged for each such duplicate issued or each such transfer.

All fees collected hereinabove shall be deposited with the state treasurer and credited to the motor vehicle fund.

Permits involving city streets or county roads or using city streets or county roads to reach or leave state highways, authorized for permit by the department may be issued by the city or county or counties involved. A fee of five dollars for such city or county permit may be assessed by the city or by the county legislative authority which shall be deposited in the city or county road fund. The special permit provided for herein shall be known as a "log tolerance permit" and shall designate the route or routes to be used, which shall first be approved by the city or county engineer involved. Authorization of additional route or routes may be made at the discretion of the city or county by amending the original permit or by issuing a new permit. Said permits shall be issued on a yearly basis expiring on March 31st of each calendar year. Any person, firm, or corporation who uses any city street or county road for the purpose of transporting logs with weights authorized by state highway log tolerance permits, to reach or leave a state highway route, without first obtaining a city or county permit when required by the city or the county legislative authority shall be subject to the penalties prescribed by RCW 46.44.105. For the purpose of determining gross weight the actual scale weight taken by the officer shall be prima facie evidence of such total gross weight. In the event the gross weight is in excess of the weight permitted by law, the officer

may, within his discretion, permit the operator to proceed with his vehicles in combination.

The chief of the state patrol, with the advice of the department, may make reasonable rules and regulations to aid in the enforcement of the provisions of this section. [1979 ex.s. c 136 § 74; 1975-'76 2nd ex.s. c 64 § 11; 1973 1st ex.s. c 150 § 2; 1971 ex.s. c 249 § 2; 1961 ex.s. c 21 § 35; 1961 c 12 § 46.44.047. Prior: 1955 c 384 § 19; 1953 c 254 § 10; 1951 c 269 § 31.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Effective dates—Severability—1975-'76 2nd ex.s. c 64: See notes following RCW 46.16.070.

46.44.105 Enforcement provisions—Fines, penalties, suspensions and forfeitures—Jurisdiction—Disposition of fines—Confiscation, revocation, and cancellation of permits—Rules. (Effective until January 1, 1981.) (1) Any person violating any of the provisions of RCW 46.44.042, 46.44.047, 46.44.090, 46.44.091, 46.44.095, and 46.44.041, or who fails to obtain a permit as provided by RCW 46.44.090 and 46.44.095, or misrepresents the size or weight of any load or does not follow the requirements and conditions of a permit issued hereunder shall be guilty of a misdemeanor, and upon first conviction thereof shall be fined a basic fine of not less than fifty dollars; and upon second conviction thereof shall be fined a basic fine of not less than seventy-five dollars; and upon a third or subsequent conviction shall be fined a basic fine of not less than one hundred dollars.

(2) In addition to the fines levied in subsection (1) of this section any person violating RCW 46.44.042, 46.44.047, 46.44.090, 46.44.091, 46.44.095, or 46.44.041 shall be fined three cents for each pound of excess weight: *Provided*, That upon a first violation in any calendar year, the court may suspend the fine for five hundred pounds of excess weight for each axle on any vehicle or combination of vehicles, not to exceed a two thousand pound suspension. In no case shall the basic fine levied in subsection (1) of this section be suspended.

(3) Whenever any vehicle or combination of vehicles is involved in two violations of RCW 46.44.042, 46.44.047, 46.44.090, 46.44.091, 46.44.095, or 46.44.041 during any twelve month period, the court may suspend the certificate of license registration of the vehicle or combination of vehicles for not less than thirty days. Upon a third or succeeding violation in any twelve month period, the court shall suspend the certificate of license registration for not less than thirty days. For purposes of this section, bail forfeiture shall be given the same effect as a conviction. Whenever the certificate of license registration is suspended, the court shall secure such certificate and immediately forward the same to the director with information concerning the suspension.

(4) Any person convicted of violating any posted limitations of a highway or section of highway shall be fined not less than one hundred and fifty dollars, and the court shall in addition thereto upon second violation within a

twelve month period involving the same power unit, suspend the certificate of license registration for not less than thirty days.

(5) Any police officer is authorized to require the driver of any vehicle or combination of vehicles to stop and submit to a weighing either by means of a portable or stationary scale and may require that such vehicle be driven to the nearest public scale. Whenever a police officer, upon weighing a vehicle and load, determines that the weight is unlawful, such officer may require the driver to stop the vehicle in a suitable location and remain standing until such portion of the load is removed as may be necessary to reduce the gross weight of the vehicle to such limit as permitted by law.

Any vehicle whose driver or owner represents that the vehicle is disabled or otherwise unable to proceed to a weighing location shall have its load sealed or otherwise marked by any police officer. The owner or driver shall be directed that upon completion of repairs, the vehicle shall submit to weighing with the load and markings and/or seal intact and undisturbed. Failure to report for weighing, appearing for weighing with the seal broken or the markings disturbed, or removal of any cargo prior to weighing shall be unlawful. Any person so convicted shall be fined five hundred dollars, and in addition the certificate of license registration shall be suspended for not less than thirty days.

(6) Any other provision of law to the contrary notwithstanding, justice courts having venue shall have concurrent jurisdiction with the superior courts for the imposition of any penalties authorized under this section.

(7) For the purpose of determining additional fines as provided by subsection (2) of this section, "excess weight" shall mean the poundage in excess of the maximum gross weight prescribed by RCW 46.44.042 and 46.44.041 plus the weights allowed by RCW 46.44.047, 46.44.091, and 46.44.095.

(8) The basic fine provided in subsection (1) of this section shall be distributed as prescribed in RCW 46.68.050: *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 it now exists or is later amended. For the purpose of computing the basic fines and additional fines to be imposed under the provisions of subsections (1) and (2) of this section the convictions shall be on the same vehicle or combination of vehicles within a twelve month period under the same ownership.

(9) The additional fine for excess poundage provided in subsection (2) of this section shall be transmitted by the court to the county treasurer and by him transmitted to the state treasurer for deposit in the motor vehicle fund: *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 it now exists or is later amended. It shall then be allocated annually on or before June 30th of each year in the amounts prescribed in RCW 46.68.100 as now or hereafter amended.

(10) Any state patrol officer or any weight control officer who shall find any person operating a vehicle or a

combination of vehicles in violation of the conditions of a permit issued under RCW 46.44.037, 46.44.090, and 46.44.095 may confiscate such permit and forward the same to the state highway commission which may return it to the permittee or revoke, cancel, or suspend it without refund. The state highway commission shall keep a record of all action taken upon permits so confiscated, and if a permit shall be returned to the permittee the action taken by the commission shall be endorsed thereon. Any permittee whose permit is suspended or revoked may upon request receive a hearing before the commission or person designated by the commission. The commission after such hearing may reinstate any permit or revise its previous action.

Every permit issued as provided for in this chapter shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any law enforcement officer or authorized agent of any authority granting such a permit.

Upon the third conviction within a calendar year for violation of the requirements and conditions of a permit issued under RCW 46.44.095 as now or hereafter amended, the permit shall be canceled, and the canceled permit shall be immediately transmitted by the court or the arresting officer to the department of highways, and for the purposes of this section bail forfeiture shall be considered to be a conviction. The vehicle covered by such canceled permit shall not be eligible for a new permit for a period of thirty days.

(11) For the purposes of determining gross weights the actual scale weight taken by the arresting officer shall be prima facie evidence of such total gross weight.

The chief of the state patrol, with the advice of the state highway commission, may adopt reasonable rules to aid in the enforcement of the provisions of this section. [1975-'76 2nd ex.s. c 64 § 23.]

Reviser's note: Powers, duties, and functions of highway commission and department of highways transferred to department of transportation; see RCW 47.01.031. Terms "state highway commission," "commission," and "department of highways" mean department of transportation; see RCW 47.04.015.

46.44.105 Enforcement provisions—Penalties, suspensions, fines, and forfeitures—Jurisdiction—Disposition of penalty assessments—Confiscation, revocation, and cancellation of permits—Rules. (Effective January 1, 1981.) (1) Violation of any of the provisions of RCW 46.44.042, 46.44.047, 46.44.090, 46.44.091, 46.44.095, and 46.44.041, or failure to obtain a permit as provided by RCW 46.44.090 and 46.44.095, or misrepresentation of the size or weight of any load or failure to follow the requirements and conditions of a permit issued hereunder is a traffic infraction, and upon the first finding thereof shall be assessed a basic penalty of not less than fifty dollars; and upon second finding thereof shall be assessed a basic penalty of not less than seventy-five dollars; and upon a third or subsequent finding shall be assessed a basic penalty of not less than one hundred dollars.

(2) In addition to the penalties imposed in subsection (1) of this section any person violating RCW 46.44.042,

46.44.047, 46.44.090, 46.44.091, 46.44.095, or 46.44.041 shall be assessed three cents for each pound of excess weight: *Provided*, That upon a first violation in any calendar year, the court may suspend the penalty for five hundred pounds of excess weight for each axle on any vehicle or combination of vehicles, not to exceed a two thousand pound suspension. In no case shall the basic penalty assessed in subsection (1) of this section be suspended.

(3) Whenever any vehicle or combination of vehicles is involved in two violations of RCW 46.44.042, 46.44.047, 46.44.090, 46.44.091, 46.44.095, or 46.44.041 during any twelve month period, the court may suspend the certificate of license registration of the vehicle or combination of vehicles for not less than thirty days. Upon a third or succeeding violation in any twelve month period, the court shall suspend the certificate of license registration for not less than thirty days. Whenever the certificate of license registration is suspended, the court shall secure such certificate and immediately forward the same to the director with information concerning the suspension.

(4) Any person found to have violated any posted limitations of a highway or section of highway shall be assessed a monetary penalty of not less than one hundred and fifty dollars, and the court shall in addition thereto upon second violation within a twelve month period involving the same power unit, suspend the certificate of license registration for not less than thirty days.

(5) Any police officer is authorized to require the driver of any vehicle or combination of vehicles to stop and submit to a weighing either by means of a portable or stationary scale and may require that such vehicle be driven to the nearest public scale. Whenever a police officer, upon weighing a vehicle and load, determines that the weight is unlawful, such officer may require the driver to stop the vehicle in a suitable location and remain standing until such portion of the load is removed as may be necessary to reduce the gross weight of the vehicle to such limit as permitted by law.

Any vehicle whose driver or owner represents that the vehicle is disabled or otherwise unable to proceed to a weighing location shall have its load sealed or otherwise marked by any police officer. The owner or driver shall be directed that upon completion of repairs, the vehicle shall submit to weighing with the load and markings and/or seal intact and undisturbed. Failure to report for weighing, appearing for weighing with the seal broken or the markings disturbed, or removal of any cargo prior to weighing shall be unlawful. Any person so convicted shall be fined five hundred dollars, and in addition the certificate of license registration shall be suspended for not less than thirty days.

(6) Any other provision of law to the contrary notwithstanding, justice courts having venue shall have concurrent jurisdiction with the superior courts for the imposition of any penalties authorized under this section.

(7) For the purpose of determining additional penalties as provided by subsection (2) of this section, "excess weight" shall mean the poundage in excess of the maximum gross weight prescribed by RCW 46.44.042 and

46.44.041 plus the weights allowed by RCW 46.44.047, 46.44.091, and 46.44.095.

(8) The basic penalty provided in subsection (1) of this section shall be distributed as prescribed in RCW 46.68.050: *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 it now exists or is later amended. For the purpose of computing the basic penalties and additional penalties to be imposed under the provisions of subsections (1) and (2) of this section the convictions shall be on the same vehicle or combination of vehicles within a twelve month period under the same ownership.

(9) The additional penalty for excess poundage provided in subsection (2) of this section shall be transmitted by the court to the county treasurer and by him transmitted to the state treasurer for deposit in the motor vehicle fund: *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 it now exists or is later amended. It shall then be allocated annually on or before June 30th of each year in the amounts prescribed in RCW 46.68.100 as now or hereafter amended.

(10) Any state patrol officer or any weight control officer who shall find any person operating a vehicle or a combination of vehicles in violation of the conditions of a permit issued under RCW 46.44.037, 46.44.090, and 46.44.095 may confiscate such permit and forward the same to the state highway commission which may return it to the permittee or revoke, cancel, or suspend it without refund. The state highway commission shall keep a record of all action taken upon permits so confiscated, and if a permit shall be returned to the permittee the action taken by the commission shall be endorsed thereon. Any permittee whose permit is suspended or revoked may upon request receive a hearing before the commission or person designated by the commission. The commission after such hearing may reinstate any permit or revise its previous action.

Every permit issued as provided for in this chapter shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any law enforcement officer or authorized agent of any authority granting such a permit.

Upon the third finding within a calendar year of a violation of the requirements and conditions of a permit issued under RCW 46.44.095 as now or hereafter amended, the permit shall be canceled, and the canceled permit shall be immediately transmitted by the court or the arresting officer to the department of transportation. The vehicle covered by such canceled permit shall not be eligible for a new permit for a period of thirty days.

(11) For the purposes of determining gross weights the actual scale weight taken by the arresting officer shall be prima facie evidence of such total gross weight.

The chief of the state patrol, with the advice of the department, may adopt reasonable rules to aid in the enforcement of the provisions of this section. [1979 ex.s. c 136 § 75; 1975-'76 2nd ex.s. c 64 § 23.]

Reviser's note: Powers, duties, and functions of highway commission transferred to department of transportation; see RCW 47.01.031. Terms "state highway commission" and "commission" mean department of transportation; see RCW 47.04.015.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Effective dates—Severability—1975-'76 2nd ex.s. c 64: See notes following RCW 46.16.070.

46.44.120 Liability of owner, others, for violations.

Whenever an act or omission is declared to be unlawful in chapter 46.44 RCW, the owner or lessee of any motor vehicle involved in such act or omission is responsible therefor. Any person knowingly and intentionally participating in creating an unlawful condition of use, is also subject to the penalties provided in this chapter for such unlawful act or omission.

If the person operating the vehicle at the time of the unlawful act or omission is not the owner or lessee of the vehicle, such person is fully authorized to accept the citation and execute the promise to appear on behalf of the owner or lessee. [1980 c 104 § 2; 1971 ex.s. c 148 § 1; 1969 ex.s. c 69 § 1.]

46.44.130 Farm implements—Gross weight and size limitation exception—Penalty. (Effective until January 1, 1981.) The limitations of RCW 46.44.010, 46.44.020, 46.44.030, and 46.44.041 shall not apply to the movement of farm implements of less than forty-five thousand pounds gross weight, a total length of seventy feet or less, and a total outside width of fourteen feet or less when being moved while patrolled, flagged, lighted, signed and at a time of day in accordance with rules hereby authorized to be adopted by the highway commission and the statutes. Violation of a rule adopted by the highway commission as authorized by this section or a term of this section is a misdemeanor. [1975-'76 2nd ex.s. c 64 § 20; 1975 1st ex.s. c 168 § 3; 1973 1st ex.s. c 1 § 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.

46.44.130 Farm implements—Gross weight and size limitation exception—Penalty. (Effective January 1, 1981.) The limitations of RCW 46.44.010, 46.44.020, 46.44.030, and 46.44.041 shall not apply to the movement of farm implements of less than forty-five thousand pounds gross weight, a total length of seventy feet or less, and a total outside width of fourteen feet or less when being moved while patrolled, flagged, lighted, signed, and at a time of day in accordance with rules hereby authorized to be adopted by the department of transportation and the statutes. Violation of a rule adopted by the department as authorized by this section or a term of this section is a traffic infraction. [1979 ex.s. c 136 § 76; 1975-'76 2nd ex.s. c 64 § 20; 1975 1st ex.s. c 168 § 3; 1973 1st ex.s. c 1 § 1.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

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: See note following RCW 46.44.091.

46.44.140 Farm implements—Special permits—Penalty. (Effective until January 1, 1981.) In addition to any other special permits authorized by law, special permits may be issued by the highway commission for a quarterly or annual period upon such terms and conditions as it shall find proper for the movement of (1) farm implements used for the cutting or threshing of mature crops; or (2) other farm implements as may be identified by rule of the highway commission. Any farm implement moved under this section must have a gross weight less than forty-five thousand pounds and a total outside width of less than twenty feet while being moved and such movement must be patrolled, flagged, lighted, signed, at a time of day and otherwise in accordance with rules hereby authorized to be adopted by the highway commission for the control of such movements.

Applications for and permits issued under this section shall provide for a description of the farm implements to be moved, the approximate dates of movement and the routes of movement so far as they are reasonably known to the applicant at the time of application, but the permit shall not be limited to these circumstances but shall be general in its application except as limited by the statutes and rules adopted by the highway commission.

A copy of the governing permit shall be carried on the farm implement being moved during the period of its movement. The highway commission shall collect a fee as provided in RCW 46.44.0941.

Violation of a term or condition under which a permit was issued, or a rule adopted by the highway commission as authorized by this section or a term of this section is a misdemeanor. [1973 1st ex.s. c 1 § 2.]

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.

46.44.140 Farm implements—Special permits—Penalty. (Effective January 1, 1981.) In addition to any other special permits authorized by law, special permits may be issued by the department of transportation for a quarterly or annual period upon such terms and conditions as it shall find proper for the movement of (1) farm implements used for the cutting or threshing of mature crops; or (2) other farm implements as may be identified by rule of the highway commission. Any farm implement moved under this section must have a gross weight less than forty-five thousand pounds and a total outside width of less than twenty feet while being moved and such movement must be patrolled, flagged, lighted, signed, at a time of day, and otherwise in accordance with rules hereby authorized to be adopted by the department for the control of such movements.

Applications for and permits issued under this section shall provide for a description of the farm implements to be moved, the approximate dates of movement, and the routes of movement so far as they are reasonably known to the applicant at the time of application, but the permit shall not be limited to these circumstances but shall

be general in its application except as limited by the statutes and rules adopted by the department.

A copy of the governing permit shall be carried on the farm implement being moved during the period of its movement. The department shall collect a fee as provided in RCW 46.44.0941.

Violation of a term or condition under which a permit was issued, or a rule adopted by the department as authorized by this section or a term of this section is a traffic infraction. [1979 ex.s. c 136 § 77; 1973 1st ex.s. c 1 § 2.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

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 department of transportation 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 department of transportation and local authorities are authorized to adopt reasonable rules for implementing the provisions of this section. [1980 c 152 § 1; 1977 ex.s. c 22 § 2.]

Severability—1977 ex.s. c 22: See note following RCW 46.04.302.

46.44.175 Penalties—Hearing. (Effective until January 1, 1981.) 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 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.

46.44.175 Penalties—Hearing. (Effective January 1, 1981.) Failure of 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 failure to comply with any of the provisions of RCW 46.44.170 and 46.44.173 is a traffic infraction for which a penalty of not less than fifty dollars or more than one hundred dollars shall be assessed. In addition to the above penalty, the department of transportation 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 department of transportation or the local authority having jurisdiction. The department or the local authority after such hearing may revise its previous action. [1979 ex.s. c 136 § 78; 1977 ex.s. c 22 § 4.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Severability—1977 ex.s. c 22: See note following RCW 46.04.302.

46.44.180 Operation of mobile home pilot vehicle without insurance unlawful—Amounts—Exception—Penalty. (1) It is unlawful for a person, other than an employee of a dealer or other principal licensed to transport mobile homes within this state acting within the course of employment with the principal, to operate a pilot vehicle accompanying a mobile home, as defined in RCW 46.04.302, being transported on the public highways of this state, without maintaining insurance for the pilot vehicle in the minimum amounts of:

(a) One hundred thousand dollars for bodily injury to or death of one person in any one accident;

(b) Three hundred thousand dollars for bodily injury to or death of two or more persons in any one accident; and

(c) Fifty thousand dollars for damage to or destruction of property of others in any one accident.

(2) Satisfactory evidence of the insurance shall be carried at all times by the operator of the pilot vehicle, which evidence shall be displayed upon demand by a police officer.

(3) Failure to maintain the insurance as required by this section is a gross misdemeanor. Failure to carry or

disclose the evidence of the insurance is a misdemeanor. [1980 c 153 § 3.]

Chapter 46.48

SAFETY

Sections

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| 46.48.170 | State patrol authority over transport of hazardous materials—Rules and regulations. |
| 46.48.175 | Rules on transport of hazardous materials—Penalties for violation—Responsibility for compliance. |
| 46.48.180 | State patrol authority over transport of hazardous materials—Study directed to insure uniformity of regulations. |
| 46.48.185 | State patrol authority over transport of hazardous materials—Inspections. |
| 46.48.190 | Advisory committee to be created. |

46.48.170 State patrol authority over transport of hazardous materials—Rules and regulations. The Washington state patrol acting by and through the chief of the Washington state patrol shall have the authority to adopt and enforce the regulations promulgated by the United States department of transportation, Title 49 CFR parts 100 through 199, transportation of hazardous materials, as these regulations apply to motor carriers. "Motor carrier" means any person engaged in the transportation of passengers or property operating interstate and intrastate upon the public highways of this state, except farmers. The chief of the Washington state patrol shall confer with the committee created by RCW 46.48.190 and may make rules and regulations pertaining thereto, sufficient to protect persons and property from unreasonable risk of harm or damage. The chief of the Washington state patrol and the committee shall establish such additional rules not inconsistent with Title 49 CFR parts 100 through 199, transportation of hazardous materials, which for compelling reasons make necessary the reduction of risk associated with the transportation of hazardous materials. No such rules may lessen a standard of care; however, the chief of the Washington state patrol may after conferring with the committee establish a rule imposing a more stringent standard of care. The chief of the Washington state patrol shall appoint the necessary qualified personnel to carry out the provisions of RCW 46.48.170 through 46.48.190. [1980 c 20 § 1; 1961 c 12 § 46.48.170. Prior: 1951 c 102 § 1; 1949 c 101 § 1; Rem. Supp. 1949 § 6360–63a.]

46.48.175 Rules on transport of hazardous materials—Penalties for violation—Responsibility for compliance. Each violation of any rules and/or regulations made pursuant to RCW 46.48.170 or 81.80.290 pertaining to vehicle equipment on motor carriers transporting hazardous material shall be a misdemeanor.

Bail for such a violation shall be set at a minimum of one hundred dollars. The fine for such a violation shall be not less than two hundred dollars nor more than five hundred dollars. Compliance with the provisions of this chapter is the primary responsibility of the owner or lessee of the vehicle or any vehicle used in combination

that is cited in the violation. [1980 c 104 § 1; 1961 c 12 § 46.48.175. Prior: 1951 c 102 § 2.]

46.48.180 State patrol authority over transport of hazardous materials—Study directed to insure uniformity of regulations. The Washington state patrol shall make a study of the United States department of transportation regulations pertaining to Title 49 CFR, parts 100 through 199, and the laws of this state pertaining to the same subject in order that the chief of the Washington state patrol may make necessary and proper recommendations to the legislature and state departments from time to time to bring about uniformity between the laws and regulations of the federal government and this state in regard to the transportation of such materials. [1980 c 20 § 2; 1961 c 12 § 46.48.180. Prior: 1949 c 101 § 2; Rem. Supp. 1949 § 6360–63b.]

46.48.185 State patrol authority over transport of hazardous materials—Inspections. The chief of the Washington state patrol shall direct the necessary qualified personnel to inspect the cargo of any motor carriers vehicle transporting hazardous material, inspect for proper securing, and inspect for the combined loading of cargo which would be inconsistent with the provisions of Title 49 CFR, parts 100 through 199. Authorized personnel inspecting loads of hazardous material shall do so in the presence of a representative of the motor carrier. Seal and locking devices may be removed as necessary to facilitate the inspection. The seals or locking devices removed shall be replaced by the Washington state patrol with a written form approved by the chief to certify seal or locking device removal for inspection of the cargo. [1980 c 20 § 3.]

46.48.190 Advisory committee to be created. The chief of the Washington state patrol shall appoint a committee to serve in a purely technical advisory capacity to aid in the study and evaluation of proposed regulations concerning safety in the transportation of materials described in RCW 46.48.170 as now or hereafter amended. The technical advisory committee shall consist of six citizens of the state employed in the following designated enterprises: One appointed each from the explosive industry, the petroleum industry, the chemical industry, the trucking industry, the herbicide and pesticide industry, and a representative appointed by the Washington state association of fire chiefs. [1980 c 20 § 4; 1961 c 12 § 46.48.190. Prior: 1949 c 101 § 3; Rem. Supp. 1949 § 6360–63c.]

- 46.52.020 Duty in case of injury to or death of person or damage to attended vehicle or other property—Penalty.
- 46.52.100 Record of traffic charges—Reports of convictions by courts—Venue in justice courts—Driving under influence of liquor or drugs while license suspended or revoked, penalty (as amended by 1979 ex.s. c 176).
- 46.52.100 Record of traffic charges—Reports of action by courts—Venue in justice courts—Driving under influence of liquor or drugs while license suspended or revoked, penalty (as amended by 1979 ex.s. c 136). (Effective January 1, 1981.)
- 46.52.110 Stolen and abandoned vehicles and hulks—Reports of—Recovery, report required, penalty—Stolen vehicle index. (Effective until January 1, 1981.)
- 46.52.110 Stolen and abandoned vehicles—Reports of—Recovery, report required, penalty—Notice—Disposition. (Effective January 1, 1981.)
- 46.52.120 Case record of convictions—Cross reference to accident reports. (Effective until January 1, 1981.)
- 46.52.120 Case record of convictions and traffic infractions—Cross reference to accident reports. (Effective January 1, 1981.)
- 46.52.130 Appropriate part of abstract of driving record to be furnished to individual, insurance company, employer—Confidentiality—Fees—Penalty. (Effective until January 1, 1981.)
- 46.52.130 Appropriate part of abstract of driving record to be furnished to individual, insurance company, employer—Confidentiality—Fees—Penalty. (Effective January 1, 1981.)

46.52.010 Duty on striking unattended car or other property. (Effective until January 1, 1981.) The operator of any vehicle which collided with any other vehicle which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the name and address of the operator and owner of the vehicle striking the unattended vehicle or shall leave in a conspicuous place in the vehicle struck a written notice, giving the name and address of the operator and of the owner of the vehicle striking such other vehicle.

The driver of any vehicle involved in an accident resulting only in damage to property fixed or placed upon or adjacent to any public highway shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact and of the name and address of the operator and owner of the vehicle striking such property, or shall leave in a conspicuous place upon the property struck a written notice, giving the name and address of the operator and of the owner of the vehicle so striking the property, and such person shall further make report of such accident as in the case of other accidents upon the public highways of this state. [1961 c 12 § 46.52.010. Prior: 1937 c 189 § 133; RRS § 6360–133; 1927 c 309 § 50, part; RRS § 6362–50, part.]

46.52.010 Duty on striking unattended car or other property—Penalty. (Effective January 1, 1981.) The operator of any vehicle which collided with any other vehicle which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the name and address of the operator and owner of the vehicle striking the unattended vehicle or shall leave in a conspicuous place in the vehicle struck a written notice, giving the name and

Chapter 46.52

ACCIDENTS—REPORTS—ABANDONED VEHICLES

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| Sections | |
| 46.52.010 | Duty on striking unattended car or other property. (Effective until January 1, 1981.) |
| 46.52.010 | Duty on striking unattended car or other property—Penalty. (Effective January 1, 1981.) |

address of the operator and of the owner of the vehicle striking such other vehicle.

The driver of any vehicle involved in an accident resulting only in damage to property fixed or placed upon or adjacent to any public highway shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact and of the name and address of the operator and owner of the vehicle striking such property, or shall leave in a conspicuous place upon the property struck a written notice, giving the name and address of the operator and of the owner of the vehicle so striking the property, and such person shall further make report of such accident as in the case of other accidents upon the public highways of this state. Any person violating the provisions of this section is guilty of a misdemeanor. [1979 ex.s. c 136 § 79; 1961 c 12 § 46.52.010. Prior: 1937 c 189 § 133; RRS § 6360-133; 1927 c 309 § 50, part; RRS § 6362-50, part.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Arrest of person violating duty on striking unattended vehicle or other property: RCW 10.31.100.

46.52.020 Duty in case of injury to or death of person or damage to attended vehicle or other property—

Penalty. (1) A driver of any vehicle involved in an accident resulting in the injury to or death of any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall then forthwith return to, and in every event remain at, the scene of such accident until he has fulfilled the requirements of subsection (3) of this section; every such stop shall be made without obstructing traffic more than is necessary.

(2) The driver of any vehicle involved in an accident resulting only in damage to a vehicle which is driven or attended by any person or damage to other property shall immediately stop such vehicle at the scene of such accident or as close thereto as possible and shall forthwith return to, and in any event shall remain at, the scene of such accident until he has fulfilled the requirements of subsection (3) of this section; every such stop shall be made without obstructing traffic more than is necessary.

(3) Unless otherwise provided in subsection (7) of this section the driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person or damage to other property shall give his name, address, and vehicle license number and shall exhibit his vehicle driver's license to any person struck or injured or the driver or any occupant of, or any person attending, any such vehicle collided with and shall render to any person injured in such accident reasonable assistance, including the carrying or the making of arrangements for the carrying of such person to a physician or hospital for medical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person or on his behalf. Under no circumstances shall the rendering of assistance or other compliance

with the provisions of this subsection be evidence of the liability of any driver for such accident.

(4) Any driver covered by the provisions of subsection (1) of this section failing to stop or comply with any of the requirements of subsection (3) of this section under said circumstances shall be guilty of a class C felony and, upon conviction, be punished pursuant to RCW 9A.20.020: *Provided*, That this provision shall not apply to any person injured or incapacitated by such accident to the extent of being physically incapable of complying herewith.

(5) Any driver covered by the provisions of subsection (2) of this section failing to stop or to comply with any of the requirements of subsection (3) of this section under said circumstances shall be guilty of a gross misdemeanor and, upon conviction, be punished by imprisonment for not less than thirty days nor more than one year or by a fine of not less than one hundred dollars nor more than five hundred dollars, or by both such fine and imprisonment: *Provided*, That this provision shall not apply to any person injured or incapacitated by such accident to the extent of being physically incapable of complying herewith.

(6) The license or permit to drive or any nonresident privilege to drive of any person convicted under this section or any local ordinance consisting of substantially the same language as this section of failure to stop and give information or render aid following an accident with any vehicle driven or attended by any person shall be revoked by the department.

(7) If none of the persons specified are in condition to receive the information to which they otherwise would be entitled under subsection (3) of this section, and no police officer is present, the driver of any vehicle involved in such accident after fulfilling all other requirements of subsections (1) and (3) of this section insofar as possible on his part to be performed, shall forthwith report such accident to the nearest office of the duly authorized police authority and submit thereto the information specified in subsection (3) of this section. [1980 c 97 § 1; 1979 ex.s. c 136 § 80; 1975-'76 2nd ex.s. c 18 § 1. Prior: 1975 1st ex.s. c 210 § 1; 1975 c 62 § 14; 1967 c 32 § 53; 1961 c 12 § 46.52.020; prior: 1937 c 189 § 134; RRS § 6360-134; 1927 c 309 § 50, part; RRS § 6362-50, part.]

Effective date—1980 c 97: "This 1980 act shall take effect on July 1, 1980." [1980 c 97 § 3.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Severability—1975 c 62: See note following RCW 36.75.010.

Arrest of person violating duty in case of injury to or death of person or damage to attended vehicle: RCW 10.31.100.

46.52.100 Record of traffic charges—Reports of convictions by courts—Venue in justice courts—Driving under influence of liquor or drugs while license suspended or revoked, penalty (as amended by 1979 ex.s. c 176). Every justice of the peace, police judge and clerk of superior court shall keep or cause to be kept a record of every traffic complaint, traffic citation or other legal form of traffic charge deposited with or presented to said justice of the peace, police judge, superior court or a traffic violations bureau, and shall keep a record of every official action by said court or its traffic violations bureau in reference thereto, including but not limited to a record of every conviction, forfeiture of bail, judgment of acquittal and the amount of fine

or forfeiture resulting from every said traffic complaint or citation deposited with or presented to the justice of the peace, police judge, superior court or traffic violations bureau.

The Monday following the conviction or forfeiture of bail of a person upon a charge of violating any provisions of this chapter or other law regulating the operating of vehicles on highways, every said magistrate of the court or clerk of the court of record in which such conviction was had or bail was forfeited shall prepare and immediately forward to the director of licensing at Olympia an abstract of the record of said court covering the case in which said person was so convicted or forfeited bail, which abstract must be certified by the person so required to prepare the same to be true and correct. Report need not be made of any conviction involving the illegal parking or standing of a vehicle.

Said abstract must be made upon a form furnished by the director and shall include the name and address of the party charged, the number, if any, of his driver's or chauffeur's license, the registration number of the vehicle involved, the nature of the offense, the date of hearing, the plea, the judgment, or whether the bail forfeited and the amount of the fine or forfeiture as the case may be.

Every court of record shall also forward a like report to the director upon the conviction of any person of manslaughter or other felony in the commission of which a vehicle was used.

The failure of any such judicial officer to comply with any of the requirements of this section shall constitute misconduct in office and shall be grounds for removal therefrom.

The director shall keep all abstracts received hereunder at his office in Olympia and the same shall be open to public inspection during reasonable business hours.

Venue in all justice courts shall be before one of the two nearest justices of the peace in incorporated cities and towns nearest to the point the violation allegedly occurred: *Provided*, That in counties of class A and of the first class such cases may be tried in the county seat at the request of the defendant.

It shall be the duty of the officer, prosecuting attorney or city attorney signing the charge or information in any case involving a charge of driving under the influence of intoxicating liquor or any drug immediately to make request to the director for an abstract of convictions and forfeitures which the director shall furnish.

If the driver at the time of the offense charged was without a driver's license because of a previous suspension or revocation, the minimum mandatory jail sentence and fine shall be ninety days in the county jail and a two hundred dollar fine. The penalty so imposed shall not be suspended. [1979 ex.s. c 176 § 4; 1979 c 158 § 163; 1967 c 32 § 60; 1961 c 12 § 46.52.100. Prior: 1955 c 393 § 2; 1949 c 196 § 15; 1937 c 189 § 142; Rem. Supp. 1949 § 6360-142.]

Severability—1979 ex.s. c 176: See note following RCW 46.61.502.

46.52.100 Record of traffic charges—Reports of action by courts—Venue in justice courts—Driving under influence of liquor or drugs while license suspended or revoked, penalty (as amended by 1979 ex.s. c 136). (Effective January 1, 1981.) Every justice of the peace, police judge, and clerk of superior court shall keep or cause to be kept a record of every traffic complaint, traffic citation, notice of infraction, or other legal form of traffic charge deposited with or presented to said justice of the peace, police judge, superior court, or a traffic violations bureau, and shall keep a record of every official action by said court or its traffic violations bureau in reference thereto, including but not limited to a record of every conviction, forfeiture of bail, judgment of acquittal, finding that a traffic infraction has been committed, dismissal of a notice of infraction, and the amount of fine, forfeiture, or penalty resulting from every said traffic complaint, citation, or notice of infraction deposited with or presented to the justice of the peace, police judge, superior court, or traffic violations bureau.

The Monday following the conviction, forfeiture of bail, or finding that a traffic infraction was committed for violation of any provisions of this chapter or other law regulating the operating of vehicles on highways, every said magistrate of the court or clerk of the court of record in which such conviction was had, bail was forfeited, or the finding made shall prepare and immediately forward to the director of licensing at Olympia an abstract of the record of said court covering the case, which abstract must be certified by the person so required to prepare the same to be true and correct. Report need not be made of any finding involving the illegal parking or standing of a vehicle.

Said abstract must be made upon a form furnished by the director and shall include the name and address of the party charged, the number, if any, of his driver's or chauffeur's license, the registration number of the vehicle involved, the nature of the offense, the date of hearing, the plea, the judgment, whether bail forfeited, whether the determination that a traffic infraction was committed was contested, and the amount of the fine, forfeiture, or penalty as the case may be.

Every court of record shall also forward a like report to the director upon the conviction of any person of manslaughter or other felony in the commission of which a vehicle was used.

The failure of any such judicial officer to comply with any of the requirements of this section shall constitute misconduct in office and shall be grounds for removal therefrom.

The director shall keep all abstracts received hereunder at his office in Olympia and the same shall be open to public inspection during reasonable business hours.

Venue in all justice courts shall be before one of the two nearest justices of the peace in incorporated cities and towns nearest to the point the violation allegedly occurred: *Provided*, That in counties of class A and of the first class such cases may be tried in the county seat at the request of the defendant.

It shall be the duty of the officer, prosecuting attorney, or city attorney signing the charge or information in any case involving a charge of driving under the influence of intoxicating liquor or any narcotic drug immediately to make request to the director for an abstract of convictions and forfeitures which the director shall furnish.

If a driver has a record of two or more convictions or forfeitures of the offense of operating a vehicle under the influence of or affected by the use of intoxicating liquor or any narcotic drug within a five year period, he shall, upon conviction, be fined not less than one hundred dollars and not more than one thousand dollars, and shall be sentenced to not less than thirty days and not more than one year in the county jail and neither fine nor sentence shall be suspended; and the court shall revoke the driver's license.

If the driver at the time of the offense charged was without a driver's license because of a previous suspension or revocation, the minimum mandatory jail sentence and fine shall be ninety days in the county jail and a two hundred dollar fine. The penalty so imposed shall not be suspended. [1979 ex.s. c 136 § 81; 1979 c 158 § 163; 1967 c 32 § 60; 1961 c 12 § 46.52.100. Prior: 1955 c 393 § 2; 1949 c 196 § 15; 1937 c 189 § 142; Rem. Supp. 1949 § 6360-142.]

Reviser's note: RCW 46.52.100 was amended twice during the 1979 extraordinary session of the legislature, each without reference to the other. The amendment by 1979 ex.s. c 136 was not to be effective until July 1, 1980. However the effective date of 1979 ex.s. c 136 was delayed until January 1, 1981, by 1980 c 128 § 9; until then 1979 ex.s. c 176 controls.

For rule of construction concerning sections amended more than once at the same legislative session, see RCW 1.12.025.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.52.110 Stolen and abandoned vehicles and hulks—Reports of—Recovery, report required, penalty—Stolen vehicle index. (Effective until January 1, 1981.) It shall be the duty of the sheriff of every county, the chief of police or chief police officer of every incorporated city and town of this state, constables, and members of the Washington state patrol to report immediately to the chief of the Washington state patrol all motor vehicles reported to them as stolen or recovered, upon forms to be provided by the chief of the Washington state patrol.

In the event that any motor vehicle reported as stolen has been recovered, the person so reporting the same as stolen shall be guilty of a misdemeanor unless he shall report the recovery thereof to the sheriff, chief of police, or other chief police officer to whom such motor vehicle was reported as stolen.

Upon receipt of such information the chief of the Washington state patrol shall enter the information in a

"stolen vehicle index". He shall also enter any reports of vehicles stolen in other states and reported to him as such. It shall be the duty of the chief of the Washington state patrol to keep a record of all vehicles reported to him as recovered.

Such information shall be provided by the chief of the Washington state patrol for the use of the director of licensing as will permit the director to check the motor or serial number set forth in any application for certificate of ownership or certificate of license registration against such "stolen vehicle index" and no such certificates shall be issued upon any vehicle recorded as stolen and the director shall immediately inform the chief of the Washington state patrol of any application upon any such vehicle.

It shall be the duty of the sheriff of every county, the chief of police or chief police officer of each incorporated city and town, members of the Washington state patrol and constables to report to the chief of the Washington state patrol all vehicles or vehicle hulks found abandoned on a public highway or at any other place and the same shall thereafter, at the direction of such law enforcement officer, be disposed of as provided in this chapter. [1979 ex.s. c 178 § 11; 1979 c 158 § 166; 1969 ex.s. c 42 § 6; 1967 c 32 § 61; 1965 ex.s. c 23 § 2; 1963 c 44 § 1; 1961 c 12 § 46.52.110. Prior: 1937 c 189 § 143; RRS § 6360-143.]

46.52.110 Stolen and abandoned vehicles—Reports of—Recovery, report required, penalty—Notice—Disposition. (Effective January 1, 1981.) It shall be the duty of the sheriff of every county, the chief of police or chief police officer of every incorporated city and town of this state, constables, and members of the Washington state patrol to report immediately to the chief of the Washington state patrol all motor vehicles reported to them as stolen or recovered, upon forms to be provided by the chief of the Washington state patrol.

In the event that any motor vehicle reported as stolen has been recovered, failure of the person so reporting the same as stolen to report the recovery thereof to the sheriff, chief of police, or other chief police officer to whom such motor vehicle was reported as stolen is a traffic infraction.

Upon receipt of such information the chief of the Washington state patrol shall enter the information in a "stolen vehicle index." He shall also enter any reports of vehicles stolen in other states and reported to him as such. It shall be the duty of the chief of the Washington state patrol to keep a record of all vehicles reported to him as recovered.

Such information shall be provided by the chief of the Washington state patrol for the use of the director of licensing as will permit the director to check the motor or serial number set forth in any application for certificate of ownership or certificate of license registration against such "stolen vehicle index" and no such certificates shall be issued upon any vehicle recorded as stolen and the director shall immediately inform the chief of the Washington state patrol of any application upon any such vehicle.

It shall be the duty of the sheriff of every county, the chief of police or chief police officer of each incorporated city and town, members of the Washington state patrol, and constables to report to the chief of the Washington state patrol all vehicles or vehicle hulks found abandoned on a public highway or at any other place and the same shall thereafter, at the direction of such law enforcement officer, be disposed of as provided in this chapter. [1980 c 148 § 4. Prior: 1979 ex.s. c 178 § 11; 1979 ex.s. c 136 § 82; 1979 c 158 § 166; 1969 ex.s. c 42 § 6; 1967 c 32 § 61; 1965 ex.s. c 23 § 2; 1963 c 44 § 1; 1961 c 12 § 46.52.110; prior: 1937 c 189 § 143; RRS § 6360-143.]

Effective date—1980 c 148: See note following RCW 46.10.090.

Severability—1979 ex.s. c 178: See note following RCW 46.61.590.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.52.120 Case record of convictions—Cross reference to accident reports. (Effective until January 1, 1981.) 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 ex.s. c 356 § 1; 1967 c 32 § 62;

1961 c 12 § 46.52.120. Prior: 1937 c 189 § 144; RRS § 6360-144.]

46.52.120 Case record of convictions and traffic infractions—Cross reference to accident reports. (Effective January 1, 1981.) 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 and findings of traffic infractions 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, 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, and all findings that the person has committed a traffic infraction while the person is driving a commercial motor vehicle as an employee of another. The other part shall include all other accidents, convictions, and findings that the person has committed a traffic infraction. 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. [1979 ex.s. c 136 § 83; 1977 ex.s. c 356 § 1; 1967 c 32 § 62; 1961 c 12 § 46.52.120. Prior: 1937 c 189 § 144; RRS § 6360-144.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.52.130 Appropriate part of abstract of driving record to be furnished to individual, insurance company, employer—Confidentiality—Fees—Penalty. (Effective until January 1, 1981.) 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 ex.s. c 356 § 2; 1977 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.]

46.52.130 Appropriate part of abstract of driving record to be furnished to individual, insurance company, employer—Confidentiality—Fees—Penalty. (Effective January 1, 1981.) 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, forfeitures of bail, or findings that an infraction was committed based upon a violation of any motor vehicle law. Such enumeration shall include any reports of failure to appear in response to a traffic citation or failure to respond to a notice of infraction 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 or finding of a traffic infraction involving 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. [1979 ex.s. c 136 § 84; 1977 ex.s. c 356 § 2; 1977 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.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Effective date—1967 c 174: See note following RCW 46.29.050.

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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- 46.61.750 Effect of regulations—Penalty. (Effective until January 1, 1981.)
- 46.61.750 Effect of regulations—Penalty. (Effective January 1, 1981.)

OBEDIENCE TO AND EFFECT OF TRAFFIC LAWS

46.61.010 Required obedience to traffic laws—Penalties. (Effective until January 1, 1981.) Failure to perform any act required in this chapter or performance of any act forbidden by this chapter or violation of any local ordinance relating to traffic, parking, standing, stopping, and pedestrian offenses is a misdemeanor. A misdemeanor under this chapter shall be punishable by imposition of a fine not to exceed two hundred fifty dollars, and shall not be punishable by confinement in any jail or correctional institution: *Provided*, That offenses described in the following sections of RCW shall be classified and punishable as prescribed by this title and where the offense is classified as a misdemeanor and no specific penalty is prescribed shall be punishable by imprisonment in the county jail for a maximum term of not more than ninety days or by a fine of not more than five hundred dollars or by both such imprisonment and fine:

- RCW 46.20.342 Relating to driving while license suspended or revoked;
- RCW 46.52.010 Relating to duty on striking unattended car or other property;
- RCW 46.52.020 Relating to duty in case of injury to or death of person or damage to attended vehicle;
- RCW 46.61.500 Relating to reckless driving;
- RCW 46.61.506 Relating to persons under influence of intoxicating liquor or drugs;
- RCW 46.61.520 Relating to negligent homicide by motor vehicle—Penalty;
- RCW 46.61.530 Relating to racing of vehicles on highways—Reckless driving;
- RCW 46.61.535 Relating to advertising of unlawful speed attained—Reckless driving.

[1975-'76 2nd ex.s. c 95 § 1; 1965 ex.s. c 155 § 2.]

Reviser's note: RCW 46.61.010 was repealed by 1979 ex.s. c 136 § 109, effective July 1, 1980; the effective date of 1979 ex.s. c 136 was delayed until January 1, 1981, by 1980 c 128 § 9. For later enactment, see RCW 46.63.020.

46.61.021 Duty to obey law enforcement officer—Authority of officer. (Effective January 1, 1981.) (1)

Any person requested or signaled to stop by a law enforcement officer for a traffic infraction has a duty to stop.

(2) Whenever any person is stopped for a traffic infraction, the officer may detain that person for a reasonable period of time necessary to identify the person, check the status of the person's license and the vehicle's registration, and complete and issue a notice of traffic infraction.

(3) Any person requested to identify himself to a law enforcement officer pursuant to an investigation of a traffic infraction has a duty to identify himself, give his current address, and sign an acknowledgement of receipt of the notice of infraction. [1979 ex.s. c 136 § 4.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.61.022 Failure to obey officer—Penalty. (Effective January 1, 1981.) Any person who wilfully fails to stop when requested or signaled to do so by a person reasonably identifiable as a law enforcement officer or to comply with RCW 46.61.021(3), is guilty of a misdemeanor. [1979 ex.s. c 136 § 5.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

RECKLESS DRIVING, DRIVING WHILE INTOXICATED, AND NEGLIGENT HOMICIDE BY VEHICLE

46.61.500 Reckless driving—Penalty. (Effective until January 1, 1981.) (1) Any person who drives any vehicle in wilful or wanton disregard for the safety of persons or property is guilty of reckless driving.

(2) The license or permit to drive or any nonresident privilege of any person convicted of reckless driving shall be suspended by the department for not less than thirty days. [1967 c 32 § 67; 1965 ex.s. c 155 § 59.]

46.61.500 Reckless driving—Penalty. (Effective January 1, 1981.) (1) Any person who drives any vehicle in wilful or wanton disregard for the safety of persons or property is guilty of reckless driving. Violation of the provisions of this section is a misdemeanor.

(2) The license or permit to drive or any nonresident privilege of any person convicted of reckless driving shall be suspended by the department for not less than thirty days. [1979 ex.s. c 136 § 85; 1967 c 32 § 67; 1965 ex.s. c 155 § 59.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Arrest of person involved in reckless driving: RCW 10.31.100.

Embracing another while driving as reckless driving: RCW 46.61.665.

Excess speed as prima facie evidence of reckless driving: RCW 46.61.465.

Racing of vehicles on public highways, reckless driving: RCW 46.61.530.

Revocation of license, reckless driving: RCW 46.20.285.

46.61.525 Operating motor vehicle in a negligent manner. (Effective until January 1, 1981.) It shall be

unlawful for any person to operate a motor vehicle in a negligent manner over and along the public highways of this state. For the purpose of this section to "operate in a negligent manner" shall be construed to mean the operation of a vehicle upon the public highways of this state in such a manner as to endanger or be likely to endanger any persons or property.

The offense of operating a vehicle in a negligent manner shall be considered to be a lesser offense than, but included in, the offense of operating a vehicle in a reckless manner, and any person charged with operating a vehicle in a reckless manner may be convicted of the lesser offense of operating a vehicle in a negligent manner. Any person violating the provisions of this section will be guilty of a misdemeanor: *Provided*, That the director shall not revoke any license under this section. [1967 c 32 § 69; 1961 c 12 § 46.56.030. Prior: 1939 c 154 § 1; RRS § 6360-118 1/2. Formerly RCW 46.56.030.]

46.61.525 Operating motor vehicle in a negligent manner—Penalty—Exception. (Effective January 1, 1981.) It shall be unlawful for any person to operate a motor vehicle in a negligent manner. For the purpose of this section to "operate in a negligent manner" shall be construed to mean the operation of a vehicle in such a manner as to endanger or be likely to endanger any persons or property: *Provided however*, That any person operating a motor vehicle on private property with the consent of the owner in a manner consistent with the owner's consent shall not be guilty of negligent driving.

The offense of operating a vehicle in a negligent manner shall be considered to be a lesser offense than, but included in, the offense of operating a vehicle in a reckless manner, and any person charged with operating a vehicle in a reckless manner may be convicted of the lesser offense of operating a vehicle in a negligent manner. Any person violating the provisions of this section will be guilty of a misdemeanor: *Provided*, That the director may not revoke any license under this section, and such offense is not punishable by imprisonment or by a fine exceeding two hundred fifty dollars. [1979 ex.s. c 136 § 86; 1967 c 32 § 69; 1961 c 12 § 46.56.030. Prior: 1939 c 154 § 1; RRS § 6360-118 1/2. Formerly RCW 46.56.030.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Arrest of person involved in negligent driving: RCW 10.31.100.

46.61.530 Racing of vehicles on highways—Reckless driving. (Effective until January 1, 1981.) No person or persons shall race any motor vehicle or motor vehicles upon any public highway of this state. Any person or persons guilty of comparing or contesting relative speeds by simultaneous operations shall be guilty of reckless driving whether or not such speed is in excess of the maximum speed prescribed by law. [1961 c 12 § 46.48.050. Prior: 1937 c 189 § 67; RRS § 6360-67; 1921 c 96 § 32; 1915 c 142 § 25; RRS § 6344. Formerly RCW 46.48.050.]

46.61.530 Racing of vehicles on highways—Reckless driving—Exception. (Effective January 1, 1981.)

No person or persons may race any motor vehicle or motor vehicles upon any public highway of this state. Any person or persons who wilfully compare or contest relative speeds by operation of one or more motor vehicles shall be guilty of racing, which shall constitute reckless driving under RCW 46.61.500, whether or not such speed is in excess of the maximum speed prescribed by law: *Provided however*, That any comparison or contest of the accuracy with which motor vehicles may be operated in terms of relative speeds not in excess of the posted maximum speed does not constitute racing. [1979 ex.s. c 136 § 87; 1961 c 12 § 46.48.050. Prior: 1937 c 189 § 67; RRS § 6360-67; 1921 c 96 § 32; 1915 c 142 § 25; RRS § 6344. Formerly RCW 46.48.050.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Arrest of person involved in racing of vehicles: RCW 10.31.100.

46.61.535 Advertising of unlawful speed attained—Reckless driving. (Effective until January 1, 1981.) It shall be unlawful for any manufacturer, dealer, distributor or any person, firm or corporation to publish or advertise or offer for publication or advertisement, or to consent or cause to be published or advertised, the time consumed or speed attained by a vehicle between given points or over given or designated distances upon any public highways of this state when such published or advertised time consumed or speed attained shall indicate an average rate of speed between given points or over a given or designated distance in excess of the maximum rate of speed allowed between such points or at a rate of speed which would constitute reckless driving between such points. Conviction for a violation of any of the provisions of this section shall be prima facie evidence of reckless driving and shall subject such person, firm, or corporation to the penalties in such cases provided. [1961 c 12 § 46.48.060. Prior: 1937 c 189 § 68; RRS § 6360-68. Formerly RCW 46.48.060.]

46.61.535 Advertising of unlawful speed attained—Reckless driving. (Effective January 1, 1981.) It shall be unlawful for any manufacturer, dealer, distributor, or any person, firm, or corporation to publish or advertise or offer for publication or advertisement, or to consent or cause to be published or advertised, the time consumed or speed attained by a vehicle between given points or over given or designated distances upon any public highways of this state when such published or advertised time consumed or speed attained shall indicate an average rate of speed between given points or over a given or designated distance in excess of the maximum rate of speed allowed between such points or at a rate of speed which would constitute reckless driving between such points. Violation of any of the provisions of this section shall be prima facie evidence of reckless driving and shall subject such person, firm, or corporation to the penalties in such cases provided. [1979 ex.s. c 136 § 88; 1961 c 12 § 46.48.060. Prior:

1937 c 189 § 68; RRS § 6360-68. Formerly RCW 46.48.060.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

MISCELLANEOUS RULES

46.61.600 Unattended motor vehicle. (1) No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key and effectively setting the brake thereon and, when standing upon any perceptible grade, turning the front wheels to the curb or side of the highway.

(2) The most recent driver of a motor vehicle which the driver has left standing unattended, who learns that the vehicle has become set in motion and has struck another vehicle or property, or has caused injury to any person, shall comply with the requirements of:

(a) RCW 46.52.010 if his vehicle strikes an unattended vehicle or property adjacent to a public highway; or

(b) RCW 46.52.020 if his vehicle causes damage to an attended vehicle or other property or injury to any person.

(3) Any person failing to comply with subsection (2)(b) of this section shall be subject to the sanctions set forth in RCW 46.52.020. [1980 c 97 § 2; 1965 ex.s. c 155 § 68.]

Effective date—1980 c 97: See note following RCW 46.52.020.

46.61.665 Embracing another while driving. (Effective until January 1, 1981.) It shall be unlawful for any person to operate a motor vehicle upon the highways of this state when such person has in his or her embrace another person which prevents the free and unhampered operation of such vehicle. Any person so doing shall be deemed guilty of reckless driving. [1961 c 12 § 46.56-.100. Prior: 1937 c 189 § 117; RRS § 6360-117; 1927 c 309 § 49; RRS § 6362-49. Formerly RCW 46.56.100.]

46.61.665 Embracing another while driving. (Effective January 1, 1981.) It shall be unlawful for any person to operate a motor vehicle upon the highways of this state when such person has in his or her embrace another person which prevents the free and unhampered operation of such vehicle. Operation of a motor vehicle in violation of this section is prima facie evidence of reckless driving. [1979 ex.s. c 136 § 89; 1961 c 12 § 46.56.100. Prior: 1937 c 189 § 117; RRS § 6360-117; 1927 c 309 § 49; RRS § 6362-49. Formerly RCW 46.56.100.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.61.680 Lowering passenger motor vehicle below legal clearance—Penalty. (Effective until January 1, 1981.) It is unlawful to operate any passenger motor vehicle which has been modified from the original design so that any portion of such passenger vehicle other than

the wheels has less clearance from the surface of a level roadway than the clearance between the roadway and the lowermost portion of any rim of any wheel the tire on which is in contact with such roadway.

Any person violating the provisions of this section shall be guilty of a misdemeanor. [1961 c 151 § 1. Formerly RCW 46.56.220.]

46.61.680 Lowering passenger motor vehicle below legal clearance—Penalty. (Effective January 1, 1981.) It is unlawful to operate any passenger motor vehicle which has been modified from the original design so that any portion of such passenger vehicle other than the wheels has less clearance from the surface of a level roadway than the clearance between the roadway and the lowermost portion of any rim of any wheel the tire on which is in contact with such roadway.

Violation of the provisions of this section is a traffic infraction. [1979 ex.s. c 136 § 90; 1961 c 151 § 1. Formerly RCW 46.56.220.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.61.690 Violations relating to toll facilities. (Effective until January 1, 1981.) Any person who operates a motor vehicle over a toll bridge, toll tunnel, toll road, or toll ferry, and the approaches thereto, operated by the state of Washington, the Washington toll bridge authority or any political subdivision or municipal corporation empowered to operate toll facilities, at the entrance to which appropriate signs have been erected to notify traffic that it is entering a toll facility or its approaches and is subject to the payment of tolls at the designated station for collecting tolls, shall be guilty of a misdemeanor if:

(1) He refuses to pay, evades, or attempts to evade the payment of such tolls, or who shall use or attempt to use any spurious or counterfeit tickets, coupons or tokens for payment of any such tolls, or

(2) he turns, or attempts to turn, the vehicle around in the bridge, tunnel, loading terminal, approach or toll plaza where signs have been erected forbidding such turns, or

(3) he refuses to pass through the toll gates after having come within the area where signs have been erected notifying traffic that it is entering the area where toll is collectible or where vehicles may not turn around and where vehicles are required to pass through the toll gates for the purpose of collecting tolls. [1961 c 259 § 1. Formerly RCW 46.56.240.]

46.61.690 Violations relating to toll facilities. (Effective January 1, 1981.) Any person who operates a motor vehicle over a toll bridge, toll tunnel, toll road, or toll ferry, and the approaches thereto, operated by the state of Washington, the department of transportation, or any political subdivision or municipal corporation empowered to operate toll facilities, at the entrance to which appropriate signs have been erected to notify traffic that it is entering a toll facility or its approaches and is subject to the payment of tolls at the designated

station for collecting tolls, commits a traffic infraction if:

(1) He refuses to pay, evades, or attempts to evade the payment of such tolls, or uses or attempts to use any spurious or counterfeit tickets, coupons, or tokens for payment of any such tolls, or

(2) He turns, or attempts to turn, the vehicle around in the bridge, tunnel, loading terminal, approach, or toll plaza where signs have been erected forbidding such turns, or

(3) He refuses to pass through the toll gates after having come within the area where signs have been erected notifying traffic that it is entering the area where toll is collectible or where vehicles may not turn around and where vehicles are required to pass through the toll gates for the purpose of collecting tolls. [1979 ex.s. c 136 § 91; 1961 c 259 § 1. Formerly RCW 46.56.240.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Severability—1961 c 259: "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 259 § 2.]

OPERATION OF BICYCLES AND PLAY VEHICLES

46.61.750 Effect of regulations—Penalty. (Effective until January 1, 1981.) (1) It is a misdemeanor for any person to do any act forbidden or fail to perform any act required in RCW 46.61.750 through 46.61.780.

(2) These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein. [1965 ex.s. c 155 § 79.]

46.61.750 Effect of regulations—Penalty. (Effective January 1, 1981.) (1) It is a traffic infraction for any person to do any act forbidden or fail to perform any act required in RCW 46.61.750 through 46.61.780.

(2) These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein. [1979 ex.s. c 136 § 92; 1965 ex.s. c 155 § 79.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Bicycle defined: RCW 46.04.071.

Chapter 46.63

DISPOSITION OF TRAFFIC INFRACTIONS

(Effective January 1, 1981.)

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| 46.63.140 | Presumption regarding stopped, standing, or parked vehicles. |
| 46.63.150 | Costs and attorney's fees. |

Traffic infraction cases involving juveniles under age sixteen: RCW 13.40.250.

46.63.010 Legislative intent. It is the legislative intent in the adoption of this chapter in decriminalizing certain traffic offenses to promote the public safety and welfare on public highways and to facilitate the implementation of a uniform and expeditious system for the disposition of traffic infractions. [1979 ex.s. c 136 § 1.]

Effective date—1979 ex.s. c 136: "The provisions of chapter 136, Laws of 1979 ex. sess. and this 1980 act shall take effect on January 1, 1981, and shall apply to violations of the traffic laws committed on or after January 1, 1981." [1980 c 128 § 9; 1979 ex.s. c 136 § 111.]

Severability—1979 ex.s. c 136: "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." [1979 ex.s. c 136 § 110.]

46.63.020 Violations as traffic infractions—Exceptions. Failure to perform any act required or the performance of any act prohibited by this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to traffic including parking, standing, stopping, and pedestrian offenses, is designated as a traffic infraction and may not be classified as a criminal offense, except for an offense contained in the following provisions of this title or a violation of an equivalent administrative regulation or local law, ordinance, regulation, or resolution:

(1) RCW 46.09.120(2) relating to the operation of a nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance;

(2) RCW 46.09.130 relating to operation of nonhighway vehicles;

(3) RCW 46.10.090(2) relating to the operation of a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs or in a manner endangering the person of another;

(4) RCW 46.10.130 relating to the operation of snowmobiles;

(5) Chapter 46.12 RCW relating to certificates of ownership and registration;

(6) RCW 46.20.021 relating to driving without a valid driver's license;

(7) RCW 46.20.336 relating to the unlawful possession and use of a driver's license;

(8) RCW 46.20.342 relating to driving with a suspended or revoked license;

(9) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license;

(10) RCW 46.20.420 relating to the operation of a motor vehicle with a suspended or revoked license;

(11) Chapter 46.29 RCW relating to financial responsibility;

(12) RCW 46.48.175 relating to the transportation of dangerous articles;

(13) RCW 46.52.010 relating to duty on striking an unattended car or other property;

(14) RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(15) RCW 46.52.090 relating to reports by repairmen, storagemen, and appraisers;

(16) RCW 46.52.100 relating to driving under the influence of liquor or drugs;

(17) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company and an employer;

(18) RCW 46.61.015 relating to obedience to police officers, flagmen, or firefighters;

(19) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;

(20) RCW 46.61.022 relating to failure to stop and give identification to an officer;

(21) RCW 46.61.500 relating to reckless driving;

(22) RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;

(23) RCW 46.61.520 relating to negligent homicide by motor vehicle;

(24) RCW 46.61.525 relating to negligent driving;

(25) RCW 46.61.530 relating to racing of vehicles on highways;

(26) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;

(27) RCW 46.64.020 relating to nonappearance after a written promise;

(28) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;

(29) Chapter 46.65 RCW relating to habitual traffic offenders;

(30) Chapter 46.70 RCW relating to unfair motor vehicle business practices, except where that chapter provides for the assessment of monetary penalties of a civil nature;

(31) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;

(32) Chapter 46.80 RCW relating to motor vehicle wreckers;

(33) Chapter 46.83 RCW relating to driver's training schools. [1980 c 148 § 7; 1979 ex.s. c 136 § 2.]

Effective date—1980 c 148: See note following RCW 46.10.090.

Effective date—**Severability**—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.63.030 Notice of traffic infraction—Issuance.

(1) A law enforcement officer has the authority to issue a notice of traffic infraction when the infraction is committed in the officer's presence or if an officer investigating at the scene of a motor vehicle accident has

reasonable cause to believe that the driver of a motor vehicle involved in the accident has committed a traffic infraction.

(2) A court may issue a notice of traffic infraction upon receipt of a written statement of the officer that there is reasonable cause to believe that an infraction was committed.

(3) If any motor vehicle without a driver is found parked, standing, or stopped in violation of this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution, the officer finding the vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to the vehicle a notice of traffic infraction. [1980 c 128 § 10; 1979 ex.s. c 136 § 3.]

Effective date—**Severability**—1980 c 128: See notes following RCW 46.63.060.

Effective date—**Severability**—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.63.040 Jurisdiction of courts. (1) All violations of state law, local law, ordinance, regulation, or resolution designated as traffic infractions in RCW 46.63.020 may be heard and determined by a district court, except as otherwise provided in this section.

(2) Any municipal or police court has the authority to hear and determine traffic infractions pursuant to this chapter.

(3) Any city or town with a municipal or police court may contract with the county to have traffic infractions committed within the city or town adjudicated by a district court.

(4) District court commissioners have the authority to hear and determine traffic infractions pursuant to this chapter. [1979 ex.s. c 136 § 6.]

Effective date—**Severability**—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.63.050 Training of judicial officers. All judges and court commissioners adjudicating traffic infractions shall complete such training requirements as are promulgated by the supreme court. [1979 ex.s. c 136 § 7.]

Effective date—**Severability**—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.63.060 Notice of traffic infraction—Determination final unless contested—Form. (1) A notice of traffic infraction represents a determination that an infraction has been committed. The determination will be final unless contested as provided in this chapter.

(2) The form for the notice of traffic infraction shall be prescribed by rule of the supreme court and shall include the following:

(a) A statement that the notice represents a determination that a traffic infraction has been committed by the person named in the notice and that the determination shall be final unless contested as provided in this chapter;

(b) A statement that a traffic infraction is a noncriminal offense for which imprisonment may not be imposed as a sanction; that the penalty for a traffic infraction may include sanctions against the person's driver's license including suspension, revocation, or denial;

(c) A statement of the specific traffic infraction for which the notice was issued;

(d) A statement of the monetary penalty established for the traffic infraction;

(e) A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options;

(f) A statement that at any hearing to contest the determination the state has the burden of proving, by a preponderance of the evidence, that the infraction was committed; and that the person may subpoena witnesses including the officer who issued the notice of infraction;

(g) A statement that at any hearing requested for the purpose of explaining mitigating circumstances surrounding the commission of the infraction the person will be deemed to have committed the infraction and may not subpoena witnesses;

(h) A statement that the person must respond to the notice as provided in this chapter within seven days or the person's driver's license will not be renewed by the department until any penalties imposed pursuant to this chapter have been satisfied;

(i) A statement that failure to appear at a hearing requested for the purpose of contesting the determination or for the purpose of explaining mitigating circumstances will result in the refusal of the department to renew the person's driver's license until any penalties imposed pursuant to this chapter have been satisfied;

(j) A statement, which the person shall sign, that the person promises to respond to the notice of infraction in one of the ways provided in this chapter;

(k) A statement that failure to respond to a notice of infraction as promised is a misdemeanor and may be punished by a fine or imprisonment in jail. [1980 c 128 § 1; 1979 ex.s. c 136 § 8.]

Effective date—1980 c 128: "Sections 1 through 8 and 10 through 16 of this act shall take effect on January 1, 1981, and shall apply to violations of the traffic laws committed on or after January 1, 1981. Section 9 of 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." [1980 c 128 § 18.]

Severability—1980 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." [1980 c 128 § 17.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.63.070 Response to notice of traffic infraction—Contesting determination—Hearing—Failure to respond or appear. (1) Any person who receives a notice of traffic infraction shall respond to such notice as provided in this section within seven days of the date of the notice.

(2) If the person determined to have committed the infraction does not contest the determination the person

shall respond by completing the appropriate portion of the notice of infraction and submitting it, either by mail or in person, to the court specified on the notice. A check or money order in the amount of the penalty prescribed for the infraction must be submitted with the response. When a response which does not contest the determination is received, an appropriate order shall be entered in the court's records, and a record of the response and order shall be furnished to the department in accordance with RCW 46.20.270.

(3) If the person determined to have committed the infraction wishes to contest the determination the person shall respond by completing the portion of the notice of infraction requesting a hearing and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing, and that date shall not be sooner than seven days from the date of the notice, except by agreement.

(4) If the person determined to have committed the infraction does not contest the determination but wishes to explain mitigating circumstances surrounding the infraction the person shall respond by completing the portion of the notice of infraction requesting a hearing for that purpose and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing.

(5) (a) If any person issued a notice of traffic infraction:

(i) Fails to respond to the notice of traffic infraction as provided in subsection (2) of this section; or

(ii) Fails to appear at a hearing requested pursuant to subsection (3) or (4) of this section;

the court shall enter an appropriate order assessing the monetary penalty prescribed for the traffic infraction and any other penalty authorized by this chapter and shall notify the department in accordance with RCW 46.20.270, of the failure to respond to the notice of infraction or to appear at a requested hearing.

(b) The department may not renew the driver's license of any person for whom the court has entered an order pursuant to (a) of this subsection until any penalties imposed pursuant to this chapter have been satisfied. [1980 c 128 § 2; 1979 ex.s. c 136 § 9.]

Effective date—Severability—1980 c 128: See notes following RCW 46.63.060.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.63.080 Hearings—Rules of procedure—Counsel. (1) Procedures for the conduct of all hearings provided for in this chapter may be established by rule of the supreme court.

(2) Any person subject to proceedings under this chapter may be represented by counsel.

(3) The attorney representing the state, county, city, or town may appear in any proceedings under this chapter. [1979 ex.s. c 136 § 10.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.63.090 Hearings—Contesting determination that infraction committed—Appeal. (1) A hearing held for the purpose of contesting the determination that an infraction has been committed shall be without a jury.

(2) The court may consider the notice of traffic infraction and any other written report made under oath submitted by the officer who issued the notice or whose written statement was the basis for the issuance of the notice in lieu of the officer's personal appearance at the hearing. The person named in the notice may subpoena witnesses, including the officer, and has the right to present evidence and examine witnesses present in court.

(3) The burden of proof is upon the state to establish the commission of the infraction by a preponderance of the evidence.

(4) After consideration of the evidence and argument the court shall determine whether the infraction was committed. Where it has not been established that the infraction was committed an order dismissing the notice shall be entered in the court's records. Where it has been established that the infraction was committed an appropriate order shall be entered in the court's records. A record of the court's determination and order shall be furnished to the department in accordance with RCW 46.20.270 as now or hereafter amended.

(5) An appeal from the court's determination or order shall be to the superior court. The decision of the superior court is subject only to discretionary review pursuant to Rule 2.3 of the Rules of Appellate Procedure. [1980 c 128 § 3; 1979 ex.s. c 136 § 11.]

Effective date—Severability—1980 c 128: See notes following RCW 46.63.060.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.63.100 Hearings—Explanation of mitigating circumstances. (1) A hearing held for the purpose of allowing a person to explain mitigating circumstances surrounding the commission of an infraction shall be an informal proceeding. The person may not subpoena witnesses. The determination that an infraction has been committed may not be contested at a hearing held for the purpose of explaining mitigating circumstances.

(2) After the court has heard the explanation of the circumstances surrounding the commission of the infraction an appropriate order shall be entered in the court's records. A record of the court's determination and order shall be furnished to the department in accordance with RCW 46.20.270 as now or hereafter amended.

(3) There may be no appeal from the court's determination or order. [1979 ex.s. c 136 § 12.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.63.110 Monetary penalties. (1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(2) The supreme court may prescribe by rule a schedule of monetary penalties for designated traffic infractions.

(3) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction or failure to pay a monetary penalty imposed pursuant to this chapter.

(4) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(5) Whenever a monetary penalty is imposed by a court under this chapter it is immediately payable. If the person is unable to pay at that time the court may, in its discretion, grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment the court shall notify the department of the failure to pay the penalty, and the department may not renew the person's driver's license until the penalty has been paid and the penalty provided in subsection (3) of this section has been paid. [1980 c 128 § 4; 1979 ex.s. c 136 § 13.]

Effective date—Severability—1980 c 128: See notes following RCW 46.63.060.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.63.120 Order of court—Civil nature—Waiver, reduction, suspension of penalty—Community service in lieu of penalty. (1) An order entered after the receipt of a response which does not contest the determination, or after it has been established at a hearing that the infraction was committed, or after a hearing for the purpose of explaining mitigating circumstances is civil in nature.

(2) The court may include in the order the imposition of any penalty authorized by the provisions of this chapter for the commission of an infraction. The court may, in its discretion, waive, reduce, or suspend the monetary penalty prescribed for the infraction. At the person's request the court may order performance of a number of hours of community service in lieu of a monetary penalty, at the rate of the then state minimum wage per hour. [1979 ex.s. c 136 § 14.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.63.130 Issue of process by court of limited jurisdiction. Notwithstanding any other provisions of law governing service of process in civil cases, a court of limited jurisdiction having jurisdiction over an alleged traffic infraction may issue process anywhere within the state. [1980 c 128 § 5.]

Effective date—Severability—1980 c 128: See notes following RCW 46.63.060.

46.63.140 Presumption regarding stopped, standing, or parked vehicles. (1) In any traffic infraction case involving a violation of this title or equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to the stopping, standing, or parking of a vehicle, proof that the particular vehicle described in the notice of traffic infraction was stopping, standing, or parking in violation of any such provision of this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution, together with proof that the person named in the notice of traffic infraction was at the time of the violation the registered owner of the vehicle, shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who parked or placed the vehicle at the point where, and for the time during which, the violation occurred.

(2) The foregoing stated presumption shall apply only when the procedure prescribed in RCW 46.63.030(3) has been followed. [1980 c 128 § 11.]

Effective date—Severability—1980 c 128: See notes following RCW 46.63.060.

46.63.150 Costs and attorney's fees. (1) Notwithstanding any other provision of law, the court may suspend either a portion or all of the costs of the action.

(2) The court may not award attorney's fees or costs to the defendant in a traffic infraction case. [1980 c 128 § 13.]

Effective date—Severability—1980 c 128: See notes following RCW 46.63.060.

Chapter 46.64 ENFORCEMENT

Sections

| | |
|-----------|--|
| 46.64.020 | Nonappearance after written promise, misdemeanor. (Effective January 1, 1981.) |
| 46.64.050 | General penalty. (Effective until January 1, 1981.) |
| 46.64.050 | General penalty. (Effective January 1, 1981.) |

46.64.020 Nonappearance after written promise, misdemeanor. (Effective January 1, 1981.) Any person wilfully violating his written and signed promise to appear in court or his written and signed promise to respond to a notice of traffic infraction, as provided in this title, shall be guilty of a misdemeanor regardless of the disposition of the charge upon which he was originally arrested or the disposition of the notice of infraction: *Provided*, That a written promise to appear in court or a written promise to respond to a notice of traffic infraction may be complied with by an appearance by counsel. Any person who has been issued a notice of infraction pursuant to RCW 46.63.030(3) and who wilfully fails to respond as provided in this title shall be guilty of a misdemeanor regardless of the disposition of the notice of infraction. [1980 c 128 § 8; 1961 c 12 § 46.64.020. Prior: 1937 c 189 § 146; RRS § 6360-146.]

Effective date—Severability—1980 c 128: See notes following RCW 46.63.060.

[1980 RCW Supp—page 188]

46.64.050 General penalty. (Effective until January 1, 1981.) It shall be a misdemeanor for any person to violate any of the provisions of this title unless violation is by this title or other law of this state declared to be a felony, a gross misdemeanor, or a violation.

Unless another penalty is in this title provided, every person convicted of a misdemeanor for violation of any provisions of this title shall be punished accordingly. [1975-'76 2nd ex.s. c 95 § 3; 1961 c 12 § 46.64.050. Prior: (i) 1937 c 189 § 150; RRS § 6360-150; 1927 c 309 § 53; RRS § 6362-53. (ii) 1937 c 188 § 82; RRS § 6312-82; 1921 c 108 § 16; RRS § 6378.]

46.64.050 General penalty. (Effective January 1, 1981.) It is a traffic infraction for any person to violate any of the provisions of this title unless violation is by this title or other law of this state declared to be a felony, a gross misdemeanor, or a misdemeanor.

Unless another penalty is in this title provided, every person convicted of a misdemeanor for violation of any provisions of this title shall be punished accordingly. [1979 ex.s. c 136 § 93; 1975-'76 2nd ex.s. c 95 § 3; 1961 c 12 § 46.64.050. Prior: (i) 1937 c 189 § 150; RRS § 6360-150; 1927 c 309 § 53; RRS § 6362-53. (ii) 1937 c 188 § 82; RRS § 6312-82; 1921 c 108 § 16; RRS § 6378.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Chapter 46.65

WASHINGTON HABITUAL TRAFFIC OFFENDERS ACT

Sections

| | |
|-----------|---|
| 46.65.020 | Habitual offender defined. (Effective until January 1, 1981.) |
| 46.65.020 | Habitual offender defined. (Effective January 1, 1981.) |
| 46.65.030 | Transcripts or abstracts of conviction record certified—As prima facie evidence. (Effective until January 1, 1981.) |
| 46.65.030 | Transcripts or abstracts of conviction record certified—As prima facie evidence. (Effective January 1, 1981.) |

46.65.020 Habitual offender defined. (Effective until January 1, 1981.) As used in this chapter, unless a different meaning is plainly required by the context, an habitual offender shall mean any person, resident or nonresident, who has accumulated convictions as defined in RCW 46.20.270 or, if a minor, shall have violations recorded with the department of licensing, for separate and distinct offenses as described in either subsection (1) or (2) below committed within a five year period, as evidenced by the records maintained in the department of licensing: *Provided*, That where more than one described offense shall be committed within a six-hour period such multiple offenses shall, on the first such occasion, be treated as one offense for the purposes of this chapter:

(1) Three or more convictions, singularly or in combination, of the following offenses:

(a) Negligent homicide as defined in RCW 46.61.520;

(b) Driving or operating a motor vehicle while under the influence of intoxicants or drugs;

(c) Driving a motor vehicle while his or her license, permit, or privilege to drive has been suspended or revoked;

(d) Failure of the driver of any vehicle involved in an accident resulting in the injury or death of any person or damage to any vehicle which is driven or attended by any person to immediately stop such vehicle at the scene of such accident or as close thereto as possible and to forthwith return to and in every event remain at, the scene of such accident until he has fulfilled the requirements of RCW 46.52.020; or

(e) Reckless driving as defined in RCW 46.61.500;

(2) Twenty or more convictions for separate and distinct offenses, singularly or in combination, in the operation of a motor vehicle which are required to be reported to the department of licensing other than the offenses of driving with an expired driver's license and not having a driver's license in the operator's immediate possession. Such convictions shall include those for offenses enumerated in subsection (1) above when taken with and added to those offenses described herein but shall not include convictions for any nonmoving violation. No person shall be considered an habitual offender under this subsection unless at least three convictions have occurred within the three hundred sixty-five days immediately preceding the last conviction.

The offenses included in subsections (1) and (2) hereof shall be deemed to include offenses under any valid town, city, or county ordinance substantially conforming to the provisions cited in said subsections (1) and (2) or amendments thereto, and any federal law, or any law of another state, including subdivisions thereof, substantially conforming to the aforesaid state statutory provisions. [1979 c 62 § 1; 1971 ex.s. c 284 § 4.]

Severability—1979 c 62: "If any provision of this 1979 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1979 c 62 § 8.]

Severability—1971 ex.s. c 284: See note following RCW 46.65.010.

46.65.020 Habitual offender defined. (Effective January 1, 1981.) As used in this chapter, unless a different meaning is plainly required by the context, an habitual offender shall mean any person, resident or nonresident, who has accumulated convictions or findings that the person committed a traffic infraction as defined in RCW 46.20.270 as now or hereafter amended, or, if a minor, shall have violations recorded with the department of licensing, for separate and distinct offenses as described in either subsection (1) or (2) below committed within a five-year period, as evidenced by the records maintained in the department of licensing: *Provided*, That where more than one described offense shall be committed within a six-hour period such multiple offenses shall, on the first such occasion, be treated as one offense for the purposes of this chapter:

(1) Three or more convictions, singularly or in combination, of the following offenses:

(a) Negligent homicide as defined in RCW 46.61.520;

(b) Driving or operating a motor vehicle while under the influence of intoxicants or drugs;

(c) Driving a motor vehicle while his or her license, permit, or privilege to drive has been suspended or revoked;

(d) Failure of the driver of any vehicle involved in an accident resulting in the injury or death of any person or damage to any vehicle which is driven or attended by any person to immediately stop such vehicle at the scene of such accident or as close thereto as possible and to forthwith return to and in every event remain at, the scene of such accident until he has fulfilled the requirements of RCW 46.52.020 as now or hereafter amended; or

(e) Reckless driving as defined in RCW 46.61.500 as now or hereafter amended;

(2) Twenty or more convictions or findings that the person committed a traffic infraction for separate and distinct offenses, singularly or in combination, in the operation of a motor vehicle which are required to be reported to the department of licensing other than the offenses of driving with an expired driver's license and not having a driver's license in the operator's immediate possession. Such convictions or findings shall include those for offenses enumerated in subsection (1) above when taken with and added to those offenses described herein but shall not include convictions or findings for any nonmoving violation. No person may be considered an habitual offender under this subsection unless at least three convictions have occurred within the three hundred sixty-five days immediately preceding the last conviction.

The offenses included in subsections (1) and (2) hereof shall be deemed to include offenses under any valid town, city, or county ordinance substantially conforming to the provisions cited in said subsections (1) and (2) or amendments thereto, and any federal law, or any law of another state, including subdivisions thereof, substantially conforming to the aforesaid state statutory provisions. [1979 ex.s. c 136 § 94; 1979 c 62 § 1; 1971 ex.s. c 284 § 4.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Severability—1971 ex.s. c 284: See note following RCW 46.65.010.

46.65.030 Transcripts or abstracts of conviction record certified—As prima facie evidence. (Effective until January 1, 1981.) The director of the department of licensing shall certify three transcripts or abstracts of the conviction record as maintained by the department of licensing of any person whose record brings him or her within the definition of an habitual offender, as defined in RCW 46.65.020, to the hearing officer appointed in the event a hearing is requested. Such transcript or abstract may be admitted as evidence in any hearing or court proceeding and shall be prima facie evidence that the person named therein was duly convicted by the court wherein such conviction or holding was made of each offense shown by such transcript or abstract; and if such person shall deny any of the facts

as stated therein, he or she shall have the burden of proving that such fact is untrue. [1979 c 62 § 2; 1971 ex.s. c 284 § 5.]

Severability—1979 c 62: See note following RCW 46.65.020.

Severability—1971 ex.s. c 284: See note following RCW 46.65.010.

46.65.030 Transcripts or abstracts of conviction record certified—As prima facie evidence. (Effective January 1, 1981.) The director of the department of licensing shall certify three transcripts or abstracts of the record of convictions and findings of traffic infractions as maintained by the department of licensing of any person whose record brings him or her within the definition of an habitual offender, as defined in RCW 46.65-.020, to the hearing officer appointed in the event a hearing is requested. Such transcript or abstract may be admitted as evidence in any hearing or court proceeding and shall be prima facie evidence that the person named therein was duly convicted by the court wherein such conviction or holding was made of each offense shown by such transcript or abstract; and if such person shall deny any of the facts as stated therein, he or she shall have the burden of proving that such fact is untrue. [1979 ex.s. c 136 § 95; 1979 c 62 § 2; 1971 ex.s. c 284 § 5.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Severability—1971 ex.s. c 284: See note following RCW 46.61.010.

Chapter 46.68

DISPOSITION OF REVENUE

Sections

46.68.120

Distribution of amount allocated to counties.

46.68.170

RV account—Use for sanitary disposal systems.

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 licensing for the year next preceding the date of calculation of the allocation amounts. The director of licensing 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 during an odd-numbered year.

(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. [1980 c 87 § 44; 1979 c 158 § 185; 1977 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.]

Federal requirements—Severability—1977 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.

46.68.170 RV account—Use for sanitary disposal systems. There is hereby created in the motor vehicle fund the RV account. All moneys hereafter deposited in said account shall be used by the department of transportation for the construction and maintenance of recreational vehicle sanitary disposal systems at rest areas on federal-aid highways. [1980 c 60 § 3.]

Effective date—1980 c 60: See note following RCW 47.38.050.
Additional license fees for recreational vehicles: RCW 46.16.063.

Chapter 46.76

MOTOR VEHICLE TRANSPORTERS

Sections

46.76.080 Penalty. (Effective until January 1, 1981.)
46.76.080 Penalty. (Effective January 1, 1981.)

46.76.080 Penalty. (Effective until January 1, 1981.) The violation of any provision of this chapter shall be a misdemeanor. In addition to any other penalty imposed upon a violator of the provisions of this chapter, the director may confiscate any transporter license plates used in connection with such violation. [1961 c 12 § 46.76.080. Prior: 1947 c 97 § 8; Rem. Supp. 1947 § 6382-82.]

46.76.080 Penalty. (Effective January 1, 1981.) The violation of any provision of this chapter is a traffic infraction. In addition to any other penalty imposed upon a violator of the provisions of this chapter, the director may confiscate any transporter license plates used in connection with such violation. [1979 ex.s. c 136 § 96; 1961 c 12 § 46.76.080. Prior: 1947 c 97 § 8; Rem. Supp. 1947 § 6382-82.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Chapter 46.81

TRAFFIC SAFETY EDUCATION COURSES

Sections

- 46.81.030 Fiscal support—Penalty assessments in addition to fines and bail forfeitures. (Effective until January 1, 1981.)
- 46.81.030 Fiscal support—Penalty assessments in addition to penalties, fines, and bail forfeitures. (Effective January 1, 1981.)

46.81.030 Fiscal support—Penalty assessments in addition to fines and bail forfeitures. (Effective until January 1, 1981.) There shall be levied and paid into the traffic safety education account of the general fund of the state treasury a penalty assessment in addition to the fine or bail forfeiture on all offenses involving a violation of a state statute or city or county ordinance relating to the operation or use of motor vehicles or the licensing of vehicle operators, except offenses relating to parking of vehicles, in the following amounts:

(1) Where a fine is imposed, five dollars for each twenty dollars of fine, or fraction thereof.

(2) If bail is forfeited, five dollars for each twenty dollars of bail, or fraction thereof.

(3) Where multiple offenses are involved, the penalty assessment shall be based on the total fine or bail forfeited for all offenses.

Notwithstanding, the provisions contained in chapters 3.62 and 3.16 RCW, or any other section, all moneys derived from penalty assessments made under this section shall be forwarded to the traffic safety education account of the general fund of the state treasury and shall be used exclusively for traffic safety education.

Where a fine is suspended, in whole or in part, the penalty assessment shall be levied in accordance with the fine actually imposed. [1971 ex.s. c 26 § 1; 1970 ex.s. c 9 § 2. Prior: 1969 ex.s. c 218 § 3; 1969 ex.s. c 199 § 24; 1967 c 167 § 11; 1963 c 39 § 4.]

46.81.030 Fiscal support—Penalty assessments in addition to penalties, fines, and bail forfeitures. (Effective January 1, 1981.) There shall be levied and paid into the traffic safety education account of the general fund of the state treasury a penalty assessment in addition to the penalty, fine, or bail forfeiture on all offenses involving a violation of a state statute or city or county ordinance relating to the operation or use of motor vehicles or the licensing of vehicle operators, except offenses relating to parking of vehicles, in the following amounts:

(1) Where a fine or penalty is imposed, five dollars for each twenty dollars of fine, or fraction thereof.

(2) If bail is forfeited, five dollars for each twenty dollars of bail, or fraction thereof.

(3) Where multiple offenses are involved, the penalty assessment shall be based on the total penalty, fine, or bail forfeited for all offenses.

Notwithstanding, the provisions contained in chapters 3.62 and 3.16 RCW, or any other section, all moneys

derived from penalty assessments made under this section shall be forwarded to the traffic safety education account of the general fund of the state treasury and shall be used exclusively for traffic safety education.

Where a fine or penalty is suspended, in whole or in part, the penalty assessment shall be levied in accordance with the fine or penalty actually imposed. [1979 ex.s. c 136 § 97; 1971 ex.s. c 26 § 1; 1970 ex.s. c 9 § 2. Prior: 1969 ex.s. c 218 § 3; 1969 ex.s. c 199 § 24; 1967 c 167 § 11; 1963 c 39 § 4.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Penalty assessments in addition to fines, etc., for driver and alcohol safety action programs: RCW 46.61.515.

Chapter 46.83

TRAFFIC SCHOOLS

Sections

- 46.83.060 Duty of person required to attend—Penalty. (Effective until January 1, 1981.)
- 46.83.060 Duty of person required to attend—Penalty. (Effective January 1, 1981.)

46.83.060 Duty of person required to attend—Penalty. (Effective until January 1, 1981.) Every person required to attend a traffic school as established under the provisions of this chapter shall maintain attendance in accordance with the sentence or order. Failure so to do, unless for good cause shown by clear and convincing evidence, shall be a misdemeanor and punishable as by law provided in addition to the imposition of any punishment suspended or deferred upon the original conviction. [1961 c 12 § 46.83.060. Prior: 1959 c 182 § 6.]

46.83.060 Duty of person required to attend—Penalty. (Effective January 1, 1981.) Every person required to attend a traffic school as established under the provisions of this chapter shall maintain attendance in accordance with the sentence or order. Failure so to do, unless for good cause shown by clear and convincing evidence, is a traffic infraction. [1979 ex.s. c 136 § 98; 1961 c 12 § 46.83.060. Prior: 1959 c 182 § 6.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Chapter 46.85

RECIPROCAL OR PROPORTIONAL REGISTRATION OF VEHICLES

Sections

- 46.85.250 Valid only for intracity operation—Penalty for violation. (Effective until January 1, 1981.)
- 46.85.250 Valid only for intracity operation—Penalty for violation. (Effective January 1, 1981.)

46.85.250 Valid only for intracity operation—Penalty for violation. (Effective until January 1, 1981.) Each "floater" license plate may be used interchangeably upon any semitrailer, not exceeding the maximum gross weight, for which such license is issued, owned by

or in the possession of the licensee. Such "floater" plates shall be valid only for intracity operations.

Every violation of this section shall be punishable as a misdemeanor and every peace officer witnessing any use of any "floater" license plate outside of incorporated cities or towns shall confiscate such plate and forthwith return it to the director. [1963 c 106 § 25.]

46.85.250 Valid only for intracity operation—
Penalty for violation. (Effective January 1, 1981.) Each "floater" license plate may be used interchangeably upon any semitrailer, not exceeding the maximum gross weight, for which such license is issued, owned by, or in the possession of the licensee. Such "floater" plates shall be valid only for intracity operations.

Every violation of this section is a traffic infraction, and every peace officer witnessing any use of any "floater" license plate outside of incorporated cities or towns shall confiscate such plate and forthwith return it to the director. [1979 ex.s. c 136 § 99; 1963 c 106 § 25.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Chapter 46.90

WASHINGTON MODEL TRAFFIC ORDINANCE

Sections

- 46.90.200 Certain RCW sections adopted by reference.
- 46.90.300 Certain RCW sections adopted by reference.
- 46.90.330 Repealed.
- 46.90.345 Stolen and abandoned vehicles—Reports of notice—Disposition. (Effective until January 1, 1981.)
- 46.90.345 Stolen and abandoned vehicles—Reports of—Recovery, report required, penalty—Disposition. (Effective January 1, 1981.)
- 46.90.350 Repealed.
- 46.90.355 Repealed.
- 46.90.360 Repealed.
- 46.90.365 Repealed.
- 46.90.370 Repealed.
- 46.90.380 Repealed.
- 46.90.406 Certain RCW sections adopted by reference.
- 46.90.427 Certain RCW sections adopted by reference.
- 46.90.463 Certain RCW sections adopted by reference.
- 46.90.481 Certain RCW sections adopted by reference.
- 46.90.560 Bicycles—Penalties. (Effective until January 1, 1981.)
- 46.90.560 Bicycles—Penalties. (Effective January 1, 1981.)
- 46.90.700 Certain RCW sections adopted by reference.
- 46.90.705 Certain RCW sections adopted by reference.
- 46.90.710 Penalties. (Effective January 1, 1981.)

46.90.200 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 16.24.065, 16.24.070, and 46.08.030. [1980 c 65 § 1; 1975 1st ex.s. c 54 § 34.]

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, 46.12.101, 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, 46.16.135, 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, 46.20.022, 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, 46.32.060, 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, 46.37.196, 46.37.200, 46.37.210, 46.37.215, 46.37.220, 46.37.230, 46.37.240, 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, 46.37.369, 46.37.375, 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, 46.37.465, 46.37.480, 46.37.490, 46.37.500, 46.37.510, 46.37.513, 46.37.517, 46.37.520, 46.37.522, 46.37.523, 46.37.524, 46.37.525, 46.37.527, 46.37.528, 46.37.529, 46.37.530, 46.37.535, 46.37.537, 46.37.539, 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, 46.44.041, 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, 46.44.170, 46.44.173, 46.44.175, 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, 46.52.104, 46.52.106, 46.52.108, 46.52.111, 46.52.112, 46.52.113, 46.52.114, 46.52.116, 46.52.117, 46.52.118, 46.52.119, 46.52.1192, 46.52.1194, 46.52.1196, 46.52.1198, 46.52.145, 46.52.160, 46.52.170, 46.52.180, 46.52.190, 46.52.200, 46.52.210, and 46.80.010. [1980 c 65 § 2; 1977 ex.s. c 60 § 1; 1975 1st ex.s. c 54 § 50.]

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

46.90.345 Stolen and abandoned vehicles—Reports of notice—Disposition. (Effective until January 1, 1981.) It shall be the duty of the chief of police to report immediately to the chief of the Washington state patrol all motor vehicles reported to them as stolen or recovered, upon forms to be provided by the chief of the Washington state patrol.

In the event that any motor vehicle reported as stolen has been recovered, the motor so reporting the same as stolen shall be guilty of a misdemeanor unless he shall report the recovery thereof to the chief of police to whom such motor vehicle was reported as stolen.

It shall be the duty of the chief of police to report to the chief of the Washington state patrol all vehicles or automobile hulks found abandoned on a highway or at any other place and the same shall, at the direction of a

law enforcement officer, be placed in the custody of a registered disposer. [1975 1st ex.s. c 54 § 54.]

46.90.345 Stolen and abandoned vehicles—Reports of—Recovery, report required, penalty—Disposition. (Effective January 1, 1981.) It shall be the duty of the chief of police to report immediately to the chief of the Washington state patrol all motor vehicles reported to them as stolen or recovered, upon forms to be provided by the chief of the Washington state patrol.

In the event that any motor vehicle reported as stolen has been recovered, failure of the person so reporting the same as stolen to report the recovery thereof to the chief of police to whom such motor vehicle was reported as stolen is a traffic infraction.

It shall be the duty of the chief of police to report to the chief of the Washington state patrol all vehicles or automobile hulks found abandoned on a highway or at any other place and the same shall, at the direction of a law enforcement officer, be placed in the custody of a registered disposer. [1979 ex.s. c 136 § 100; 1975 1st ex.s. c 54 § 54.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

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

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

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

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

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

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

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, 46.61.021, 46.61.022, 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. [1980 c 65 § 3; 1977 ex.s. c 60 § 2; 1975 1st ex.s. c 54 § 64.]

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, 46.61.428, 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, 46.61.502, 46.61.504, 46.61.506, 46.61.515, 46.61.520, 46.61.525, 46.61.530, 46.61.535, 46.61.540, 46.61.560, 46.61.565, 46.61.570, and 46.61.575. [1980 c 65 § 4; 1977 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, 46.61.590, 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. [1980 c 65 § 5; 1977 ex.s. c 60 § 5; 1975 1st ex.s. c 54 § 83.]

46.90.481 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 46.61.700, 46.61.710, 46.61.720, 46.61.750, 46.61.755, 46.61.760, 46.61.765, 46.61.770, 46.61.775, and 46.61.780. [1980 c 65 § 6; 1975 1st ex.s. c 54 § 89.]

46.90.560 Bicycles—Penalties. (Effective until January 1, 1981.) Every person convicted of a violation of any provision of RCW 46.90.500 through 46.90.540 shall be guilty of a misdemeanor. [1975 1st ex.s. c 54 § 102.]

46.90.560 Bicycles—Penalties. (Effective January 1, 1981.) Violation of any provision of RCW 46.90.500 through 46.90.540 is a traffic infraction. [1979 ex.s. c 136 § 101; 1975 1st ex.s. c 54 § 102.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

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, 46.64.020, 46.64.025, 46.64.030, and 46.64.048. [1980 c 65 § 7; 1977 ex.s. c 60 § 6; 1975 1st ex.s. c 54 § 111.]

46.90.705 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 46.63.010, 46.63.020, 46.63.030, 46.63.040, 46.63.060, 46.63.070, 46.63.080, 46.63.090, 46.63.100, 46.63.110, and 46.63.120. [1980 c 65 § 8.]

46.90.710 Penalties. (Effective January 1, 1981.) Unless another penalty is expressly provided by law, any person found to have committed an act designated a traffic infraction under the provisions of this chapter shall be punished by a penalty of not more than two hundred fifty dollars. [1980 c 128 § 15; 1975 1st ex.s. c 54 § 112.]

Effective date—Severability—1980 c 128: See notes following RCW 46.63.060.

Title 47
PUBLIC HIGHWAYS AND
TRANSPORTATION
(Formerly: Public Highways)

Chapters

- 47.01 Department of transportation.**
- 47.04 General provisions.**
- 47.38 Roadside areas—Safety rest areas.**
- 47.44 Franchises on state highways.**
- 47.60 Puget Sound ferry and toll bridge system.**
- 47.68 Aeronautics.**

Chapter 47.01

DEPARTMENT OF TRANSPORTATION
(Formerly: Highway commission)

Sections

- 47.01.071 Commission—Functions, powers, and duties.**

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 1980 regular legislative session. The plan shall be reviewed and revised prior to each regular session of the legislature during an even-numbered year 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 during an odd-numbered year 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. [1980 c 87 § 45; 1977 ex.s. c 151 § 7.]

Commission—Additional duties—Study and proposed budget—1977 ex.s. c 151: "(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 ex.s. c 151 § 25.]

Additional powers—1977 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 ex.s. c 235 § 2.]

Additional powers—Rail passenger service market analysis—1977 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 ex.s. c 235 § 3.]

Powers and studies set forth in 1979 ex.s. c 192 § 2: See note following RCW 44.40.020.

Chapter 47.04

GENERAL PROVISIONS

Sections

47.04.160 Lewis and Clark bridge.

47.04.160 Lewis and Clark bridge. In commemoration of the 175th anniversary of captains Meriwether Lewis and William Clark's epic journey from Wood River, Illinois, to Cape Disappointment, Washington, and to fully honor the expedition's passing the present location of the city of Longview, Washington, in November, 1805, and to couple this commemoration with the dedication of the bridge from Longview, Washington, to Rainier, Oregon, on March 29, 1930, the official name of this bridge is changed from the Longview-Columbia bridge to the Lewis and Clark bridge. [1980 c 5 § 1.]

Chapter 47.38

ROADSIDE AREAS—SAFETY REST AREAS

Sections

47.38.030 Penalty. (Effective until January 1, 1981.)
47.38.030 Penalty. (Effective January 1, 1981.)
47.38.050 Recreational vehicle sanitary disposal systems.

47.38.030 Penalty. (Effective until January 1, 1981.) Any person violating RCW 47.38.020 or any rule or regulation adopted or promulgated pursuant to RCW 47.38.020 above shall be guilty of a misdemeanor. [1967 ex.s. c 145 § 31.]

47.38.030 Penalty. (Effective January 1, 1981.) Any person violating RCW 47.38.020 or any rule or regulation adopted or promulgated pursuant to RCW 47.38.020 above shall be guilty of a misdemeanor: *Provided*, That violation of a rule or regulation relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of a rule or regulation equivalent to those provisions of

Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor. [1979 ex.s. c 136 § 102; 1967 ex.s. c 145 § 31.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

47.38.050 Recreational vehicle sanitary disposal systems. The department of transportation shall construct and maintain recreational vehicle sanitary disposal systems in the following rest areas lying along highways which are a part of the interstate highway system:

- (1) Gee Creek rest area, northbound and southbound on Interstate 5 in Clark county;
- (2) Sea-Tac rest area, northbound on Interstate 5 in King county;
- (3) Silver Lake rest area, southbound on Interstate 5 in Snohomish county;
- (4) Winchester Wasteway rest area, eastbound and westbound on Interstate 90 in Grant county;
- (5) Sprague rest area, eastbound on Interstate 90 in Lincoln county; and
- (6) Selah Creek rest area, northbound and southbound on Interstate 82 in Yakima county. [1980 c 60 § 1.]

Effective date—1980 c 60: "This act shall take effect July 1, 1980." [1980 c 60 § 4.]

Chapter 47.44

FRANCHISES ON STATE HIGHWAYS

Sections

- 47.44.010 Wire and pipe line and tram and railway franchises—Application—Rules on hearing and notice.
- 47.44.020 Grant of franchise—Conditions—Hearing.

47.44.010 Wire and pipe line and tram and railway franchises—Application—Rules on hearing and notice. The department of transportation may grant franchises to persons, associations, private or municipal corporations, the United States government, or any agency thereof, to use any state highway for the construction and maintenance of water pipes, flume, gas, oil or coal pipes, telephone, telegraph and electric light and power lines and conduits, trams or railways, and any structures or facilities which are part of an urban public transportation system owned or operated by a municipal corporation, agency or department of the state of Washington other than the department of transportation, and any other such facilities. All applications for such franchise shall be made in writing and subscribed by the applicant, and shall describe the state highway or portion thereof over which franchise is desired and the nature of the franchise. The department of transportation shall adopt rules providing for a hearing or an opportunity for a hearing with reasonable public notice thereof with respect to any franchise application involving the construction and maintenance of utilities or other

facilities within the highway right of way which the department determines may (1) during construction, significantly disrupt the flow of traffic or use of driveways or other facilities within the right of way, or (2) during or following construction, cause a significant and adverse effect upon the surrounding environment. [1980 c 28 § 1; 1975 1st ex.s. c 46 § 1; 1967 c 108 § 7; 1963 c 70 § 1; 1961 ex.s. c 21 § 26; 1961 c 13 § 47.44.010. Prior: 1943 c 265 § 2; 1937 c 53 § 83; Rem. Supp. 1943 § 6400-83.]

Urban public transportation system defined: RCW 47.04.082.

47.44.020 Grant of franchise—Conditions—Hearing. If the department of transportation deems it to be for the public interest, the franchise may be granted in whole or in part, with or without hearing under such regulations and conditions as the department may prescribe, with or without compensation, but not in excess of the reasonable cost for investigating, handling, and granting the franchise. The department may require that the utility and appurtenances be so placed on the highway that they will, in its opinion, least interfere with other uses of the highway.

If a hearing is held, it shall be conducted by the department, and may be adjourned from time to time until completed. The applicant may be required to produce all facts pertaining to the franchise, and evidence may be taken for and against granting it.

The facility shall be made subject to removal when necessary for the construction, alteration, repair, or improvement of the highway and at the expense of the franchise holder, except that the state shall pay the cost of such removal whenever the state shall be entitled to receive proportionate reimbursement therefor from the United States in the cases and in the manner set forth in RCW 47.44.030. Renewal upon expiration of a franchise shall be by application. A person constructing or operating such a utility on a state highway is liable to any person injured thereby for any damages incident to the work of installation or the continuation of the occupancy of the highway by the utility, and except as provided above, is liable to the state for all necessary expenses incurred in restoring the highway to a permanent suitable condition for travel. No franchise may be granted for a longer period than fifty years, and no exclusive franchise or privilege may be granted. [1980 c 28 § 2; 1975 1st ex.s. c 46 § 2; 1961 c 13 § 47.44.020. Prior: 1959 c 330 § 1; 1937 c 53 § 84; RRS § 6400-84.]

Chapter 47.60

PUGET SOUND FERRY AND TOLL BRIDGE SYSTEM

Sections

- 47.60.670 Repealed.

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

Chapter 47.68

AERONAUTICS

(Formerly: Chapter 14.04 RCW, Aeronautics commission)

Sections

47.68.090 Aid to municipalities, Indian tribes—Federal aid.

47.68.090 Aid to municipalities, Indian tribes—

Federal aid. The department of transportation 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 department 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 two hundred fifty 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 department upon such ratio as the department may prescribe.

The department 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 department as their agent for the foregoing purposes. The department, 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 department upon such terms and conditions as are prescribed by the United States. All moneys received by the department 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 department 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 department, and shall be due and payable to the department immediately. [1980 c 67 § 1; 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).

Title 48 INSURANCE

Chapters

- 48.05** Insurers—General requirements.
- 48.09** Mutual insurers.
- 48.15** Unauthorized insurers.
- 48.18** The insurance contract.
- 48.20** Disability insurance.
- 48.21** Group and blanket disability insurance.
- 48.22** Casualty insurance.
- 48.44** Health care services.
- 48.46** Health maintenance organizations.
- 48.48** State fire marshal.
- 48.50** Arson reporting immunity act.
- 48.58** Riot reinsurance reimbursement.

Chapter 48.05

INSURERS—GENERAL REQUIREMENTS

Sections

- 48.05.185 Fine in addition or in lieu of suspension, revocation, or refusal.
- 48.05.340 Capital and surplus requirements.

48.05.185 Fine in addition or in lieu of suspension, revocation, or refusal. After hearing or with the consent of the insurer and in addition to or in lieu of the suspension, revocation, or refusal to renew any certificate of authority the commissioner may levy a fine upon the insurer in an amount not less than two hundred fifty dollars and not more than ten thousand dollars. The order levying such fine shall specify the period within which the fine shall be fully paid and which period shall not be less than fifteen nor more than thirty days from the date of such order. Upon failure to pay any such fine when due the commissioner shall revoke the certificate of authority of the insurer if not already revoked, and the fine shall be recovered in a civil action brought in behalf of the commissioner by the attorney general. Any fine so collected shall be paid by the commissioner to the state treasurer for the account of the general fund. [1980 c 102 § 1; 1975 1st ex.s. c 266 § 3; 1965 ex.s. c 70 § 3.]

Severability—1975 1st ex.s. c 266: See note following RCW 31.08.175.

48.05.340 Capital and surplus requirements. (1) Subject to RCW 48.05.350 and 48.05.360 to qualify for authority to transact any one kind of insurance as defined in chapter 48.11 RCW or combination of kinds of insurance as shown below, a foreign or alien insurer, whether stock, mutual, or a domestic insurer hereafter formed shall possess and thereafter maintain unimpaired paid-in capital stock, if a stock insurer, or unimpaired surplus if a mutual insurer, and shall possess when first so authorized additional funds in surplus as follows:

| Kind or kinds of insurance | Paid-in capital stock or basic surplus | Additional surplus |
|--|--|--------------------|
| Life | \$1,000,000 | \$1,000,000 |
| Disability | 1,000,000 | 1,000,000 |
| Life and disability | 1,200,000 | 1,200,000 |
| Property | 1,000,000 | 1,000,000 |
| Marine & transportation | 1,000,000 | 1,000,000 |
| General casualty | 1,200,000 | 1,200,000 |
| Vehicle | 1,000,000 | 1,000,000 |
| Surety | 1,000,000 | 1,000,000 |
| Any two of the following kinds of insurance: Property, marine & transportation, general casualty, vehicle, surety, disability | 1,500,000 | 1,500,000 |
| Multiple lines (all insurances except life and title insurance) | 1,500,000 | 1,500,000 |
| Title (in accordance with the provisions of chapter 48.29 RCW) | | |

(2) Capital and surplus requirements are based upon all the kinds of insurance transacted by the insurer wherever it may operate or propose to operate, whether or not only a portion of such kinds are to be transacted in this state.

(3) An insurer holding a certificate of authority to transact insurance in this state immediately prior to July 1, 1980, may continue to be authorized to transact the same kinds of insurance as long as it is otherwise qualified for such authority and thereafter maintains unimpaired the amount of paid-in capital stock, if a stock insurer, or basic surplus, if a mutual or reciprocal insurer, and special surplus as required of it under laws in force immediately prior to such effective date; and any proposed domestic insurer which is in process of formation or financing under a solicitation permit which is outstanding immediately prior to July 1, 1980, shall, if otherwise qualified therefor, be authorized to transact any kind or kinds of insurance upon the basis of the capital and surplus requirements of such an insurer under the laws in force immediately prior to such effective date: *Provided*, That any applicable action pending from the period between June 8, 1967, and July 1, 1980, shall be governed by this section as then in effect. [1980 c 135 § 1; 1967 c 150 § 5; 1963 c 195 § 7.]

**Chapter 48.09
MUTUAL INSURERS**

| Sections | |
|-----------|--------------------------------|
| 48.09.081 | Repealed. |
| 48.09.090 | Additional kinds of insurance. |

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

48.09.090 Additional kinds of insurance. A domestic mutual insurer may be authorized to transact kinds of insurance in addition to that for which it was originally authorized, if it has otherwise complied with the provisions of this code therefor, and while it possesses and maintains surplus funds in aggregate amount not less than the minimum amount of capital and surplus required under this code of a domestic stock insurer authorized to transact like kinds of insurance pursuant to RCW 48.05.340. [1980 c 135 § 2; 1957 c 193 § 5; 1947 c 79 § .09.09; Rem. Supp. 1947 § 45.09.09.]

**Chapter 48.15
UNAUTHORIZED INSURERS**

| Sections | |
|-----------|---|
| 48.15.020 | Solicitation by unauthorized insurer prohibited. |
| 48.15.070 | Surplus line brokers—Licensing. |
| 48.15.090 | Solvent insurer required. |
| 48.15.130 | Penalty for default. |
| 48.15.140 | Revocation, suspension, or failure to renew broker's license. |

48.15.020 Solicitation by unauthorized insurer prohibited. (1) An insurer not thereunto authorized by the commissioner shall not solicit insurance business in this state, nor transact insurance business in this state except as provided in this chapter.

(2) No person shall, in this state, represent an unauthorized insurer except as provided in this chapter. This

provision shall not apply to any adjuster or attorney at law representing such an insurer from time to time in this state in his professional capacity.

(3) Each violation of this section shall constitute a separate offense punishable by a fine of not less than two hundred fifty dollars nor more than ten thousand dollars. [1980 c 102 § 2; 1947 c 79 § .15.02; Rem. Supp. 1947 § 45.15.02.]

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 annual renewal date shall be determined by the commissioner. The commissioner shall adopt a rule providing for the proration, on a quarterly basis, of the license fee. The proration shall be applicable only: (a) To applicants who apply for a license after the expiration of the first quarter of any license year, or (b) to licensees whose licenses would exist for less than nine months as a result of the adoption of the annual renewal date.

(3) Prior to issuance of license the applicant shall file with the commissioner 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. The licensee shall maintain such bond in force for as long as the license remains in effect.

(4) Every applicant for a surplus line broker's license or for the renewal of a surplus line broker's license shall file with the application or request for renewal 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 fifty thousand dollars and shall be the bonding requirement for new licensees. The licensee shall maintain such bond in force while so licensed. The bond may be continuous in form, and total aggregate liability on the bond may be limited to the amount stated in the bond. The bond shall be contingent on the accounting by the surplus line broker to any person requesting such broker to obtain insurance, for moneys or premiums collected in connection therewith. A bond issued in accordance with RCW 48.17.250 or with this subsection will satisfy the requirements of both RCW 48.17.250 and this subsection if the limit of liability is not less than the greater of the requirement of RCW 48.17.250 or the requirement of this subsection.

(5) Any bond issued pursuant to subsection (3) or (4) of this section 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. [1980 c 102 § 3; 1979 ex.s. c 130 § 3; 1977 ex.s. c 182 § 2; 1959 c 225 § 4; 1947 c 79 § .15.07; Rem. Supp. 1947 § 45.15.07.]

48.15.090 Solvent insurer required. (1) A surplus line broker shall not knowingly place surplus line insurance with insurers unsound financially. The broker shall ascertain the financial condition of the unauthorized insurer, and maintain written evidence thereof, before placing insurance therewith. The broker shall not so insure with any insurer having less capital and surplus or combined capital funds than the minimum amounts required for an admitted multiple line insurer in accordance with RCW 48.05.340 as now or hereafter amended, and in the case of an alien insurer, there must be on file with the commissioner a copy of a trust agreement, certified by the trustee, evidencing a subsisting trust deposit of not less than one-half of a like amount by such insurer with a bank or trust company in the United States, and which deposit is held for the protection of United States policyholders. Such trust account shall consist of cash or other assets acceptable to the commissioner and shall have an expiration date which at no time shall be less than five years hence. The commissioner may, by rule and regulation, prescribe the terms under which the foregoing financial requirements may be waived in circumstances where insurance cannot be otherwise procured on risks located in this state.

(2) For any violation of this section the broker may be fined not less than one hundred dollars or more than five thousand dollars, his surplus line broker's license may be revoked, suspended, or nonrenewed. [1980 c 102 § 4; 1975 1st ex.s. c 266 § 6; 1969 ex.s. c 241 § 10; 1955 c 303 § 5; 1947 c 79 § .15.09; Rem. Supp. 1947 § 45.15.09.]

Severability—1975 1st ex.s. c 266: See note following RCW 31.08.175.

48.15.130 Penalty for default. If any surplus line broker fails to file his annual statement, or fails to remit the tax provided by RCW 48.15.120, prior to the first day of April after the tax is due, he shall be liable for a fine of one hundred dollars for each day of delinquency commencing with the first day of April. The tax may be collected by distraint, or the tax and fine may be recovered by an action instituted by the commissioner in any court of competent jurisdiction. Any fine collected by the commissioner shall be paid to the state treasurer and credited to the general fund. [1980 c 102 § 5; 1947 c 79 § .15.13; Rem. Supp. 1947 § 45.15.13.]

48.15.140 Revocation, suspension, or failure to renew broker's license. (1) The commissioner may revoke, suspend, or refuse to renew any surplus line broker's license:

(a) If the surplus line broker fails to file his annual statement or to remit the tax as required by this chapter; or

(b) If the surplus line broker fails to maintain an office in this state, or to keep the records, or to allow the

commissioner to examine his records as required by this chapter; or

(c) For any of the causes for which a broker's license may be revoked under chapter 48.17 RCW.

(2) The commissioner may suspend or revoke any such license whenever he deems suspension or revocation to be for the best interests of the people of this state.

(3) The procedures provided by this code for the suspension or revocation of general brokers' licenses shall be applicable to suspension or revocation of a surplus line broker's license.

(4) No broker whose license has been so revoked shall again be so licensed within one year thereafter, nor until any fines or delinquent taxes owing by him have been paid. [1980 c 102 § 6; 1947 c 79 § .15.14; Rem. Supp. 1947 § 45.15.14.]

Chapter 48.18

THE INSURANCE CONTRACT

Sections

- 48.18.290 Cancellation by insurer.
- 48.18.300 Cancellation by insured.

48.18.290 Cancellation by insurer. (1) Cancellation by the insurer of any policy which by its terms is cancellable at the option of the insurer, or of any binder based on such policy, may be effected as to any interest only upon compliance with either or both of the following:

(a) Written notice of such cancellation must be actually delivered or mailed to the insured or to his representative in charge of the subject of the insurance not less than twenty days prior to the effective date of the cancellation except for cancellation of insurance policies for nonpayment of premiums, which notice shall be not less than ten days prior to such date;

(b) Like notice must also be so delivered or mailed to each mortgagee, pledgee, or other person shown by the policy to have an interest in any loss which may occur thereunder.

(2) The mailing of any such notice shall be effected by depositing it in a sealed envelope, directed to the addressee at his last address as known to the insurer or as shown by the insurer's records, with proper prepaid postage affixed, in a letter depository of the United States post office. The insurer shall retain in its records any such item so mailed, together with its envelope, which was returned by the post office upon failure to find, or deliver the mailing to, the addressee.

(3) The affidavit of the individual making or supervising such a mailing, shall constitute prima facie evidence of such facts of the mailing as are therein affirmed.

(4) The portion of any premium paid to the insurer on account of the policy, unearned because of the cancellation and in amount as computed on the pro rata basis, must be actually paid to the insured or other person entitled thereto as shown by the policy or by any endorsement thereon, or be mailed to the insured or such person

as soon as possible, and no later than thirty days after the date of notice of cancellation to the insured for homeowners', dwelling fire, and private passenger auto. Any such payment may be made by cash, or by check, bank draft, or money order.

(5) This section shall not apply to contracts of life or disability insurance without provision for cancellation prior to the date to which premiums have been paid. [1980 c 102 § 7; 1979 ex.s. c 199 § 5; 1975-'76 2nd ex.s. c 119 § 2; 1947 c 79 § .18.29; Rem. Supp. 1947 § 45.18.29.]

48.18.300 Cancellation by insured. (1) Cancellation by the insured of any policy which by its terms is cancellable at the insured's option or of any binder based on such policy may be effected by written notice thereof to the insurer or surrender of the policy or binder for cancellation prior to or on the effective date of such cancellation. In [the] event the policy or binder has been lost or destroyed and cannot be so surrendered, the insurer may in lieu of such surrender accept and in good faith rely upon the insured's written statement setting forth the fact of such loss or destruction.

(2) As soon as possible, and no later than thirty days after the receipt of the notice of cancellation from the policyholder for homeowners', dwelling fire, and private passenger auto insurance, the insurer shall pay to the insured or to the person entitled thereto as shown by the insurer's records, any unearned portion of any premium paid on the policy as computed on the customary short rate or as otherwise specified in the policy: *Provided*, That the refund of any unearned portion of any premium paid on a contract of dwelling fire insurance, homeowners' insurance, or insurance predicated upon the use of a private passenger automobile (as defined in RCW 48.18.297 and excluding contracts of insurance and policies enumerated in RCW 48.18.296) shall be computed on a pro rata basis and the insurer shall refund not less than ninety percent of any unearned portion not exceeding one hundred dollars, plus ninety-five percent of any unearned portion over one hundred dollars but not exceeding five hundred dollars, and not less than ninety-seven percent of the amount of any unearned portion in excess of five hundred dollars. If the amount of any refund is less than two dollars, no refund need be made. If no premium has been paid on the policy, the insured shall be liable to the insurer for premium for the period during which the policy was in force.

(3) The surrender of a policy to the insurer for any cause by any person named therein as having an interest insured thereunder shall create a presumption that such surrender is concurred in by all persons so named.

(4) This section shall not apply to life insurance policies or to annuity contracts. [1980 c 102 § 8; 1979 ex.s. c 199 § 8; 1955 c 303 § 16; 1947 c 79 § .18.30; Rem. Supp. 1947 § 45.18.30.]

Chapter 48.20
DISABILITY INSURANCE

| | |
|-----------------------|--|
| Sections 48.20.490 | Continuation of policy coverage by former spouse and dependents. |
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48.20.490 Continuation of policy coverage by former spouse and dependents. Every policy of disability insurance issued, amended, or renewed after June 12, 1980, for an individual and his/her dependents shall contain provisions to assure that the covered spouse and/or dependents, in the event that any cease to be a qualified family member by reason of termination of marriage or death of the principal insured, shall have the right to continue the policy coverage without a physical examination, statement of health, or other proof of insurability. [1980 c 10 § 1.]

Chapter 48.21
GROUP AND BLANKET DISABILITY INSURANCE

| | |
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| Sections 48.21.210 | Conversion rights of former employees, former spouses and dependents. |
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48.21.210 Conversion rights of former employees, former spouses and dependents. Any policy of group disability insurance issued, amended, or renewed after June 12, 1980, for employees or members and their dependents shall contain provisions granting the employee or member, in the event of termination of employment or membership, the right to convert to a coverage normally offered by the group disability insurer to such employees leaving a group. The policy shall include in the conversion provisions the same conversion rights and conditions to a covered spouse and/or dependents of the employee or member in the event the covered spouse and/or dependent cease to be a family member by reason of termination of marriage or death of the employee or member. The conversion rights shall not require a physical examination, a statement of health, or other proof of insurability. [1980 c 10 § 2.]

Chapter 48.22
CASUALTY INSURANCE

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| Sections 48.22.030 | Underinsured or hit-and-run motor vehicle coverage to be provided—Exceptions—Conditions. (Effective September 1, 1980.) |
| 48.22.040 | Underinsured motor vehicle coverage to include insured motor vehicle where liability insurer is insolvent—Extent of coverage—Rights of insurer upon making payment. (Effective September 1, 1980.) |

48.22.030 Underinsured or hit-and-run motor vehicle coverage to be provided—Exceptions—Conditions. (Effective September 1, 1980.) (1) "Underinsured motor

vehicle" means a motor vehicle with respect to the ownership, maintenance, or use of which either no bodily injury liability bond or insurance policy applies at the time of an accident, or with respect to which the sum of the limits of liability under all bodily injury liability bonds and insurance policies applicable to a covered person after an accident is less than the damages which the covered person is legally entitled to recover.

(2) No new policy or renewal of an existing policy insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any person arising out of the ownership, maintenance, or use of a motor vehicle shall be issued with respect to any motor vehicle registered or principally garaged in this state unless coverage is provided therein or supplemental thereto for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of underinsured motor vehicles and hit-and-run motor vehicles because of bodily injury or death, resulting therefrom, except while operating or occupying a motorcycle or motor-driven cycle, and except while operating or occupying a motor vehicle owned or available for the regular use by the named insured or any family member, and which is not insured under the liability coverage of the policy.

(3) Coverage required under subsection (2) of this section shall be in the same amount as the insured's third party liability coverage unless the insured rejects all or part of the coverage as provided in subsection (4) of this section.

(4) The insured may reject underinsured coverage and the requirements of subsections (2) and (3) of this section shall not apply. If the insured has rejected underinsured coverage, such coverage shall not be included in any supplemental or renewal policy unless the insured subsequently requests such coverage in writing.

(5) The limit of liability under the policy coverage may be defined as the maximum limits of liability for all damages resulting from any one accident regardless of the number of covered persons, claims made, or vehicles or premiums shown on the policy, or premiums paid, or vehicles involved in an accident.

(6) The policy may provide that if an injured person has other similar insurance available to him under other policies, the total limits of liability of all coverages shall not exceed the higher of the applicable limits of the respective coverages. [1980 c 117 § 1; 1967 c 150 § 27.]

Effective date—1980 c 117: "This act shall take effect on September 1, 1980." [1980 c 117 § 8.]

48.22.040 Underinsured motor vehicle coverage to include insured motor vehicle where liability insurer is insolvent—Extent of coverage—Rights of insurer upon making payment. (Effective September 1, 1980.) (1) The term "underinsured motor vehicles" with reference to coverage offered under any insurance policy regulated under this chapter shall, subject to the terms and conditions of such coverage, be deemed to include an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability

of its insured within the limits specified therein because of insolvency.

(2) An insurer's insolvency protection shall be applicable only to accidents occurring during a policy period in which its insured's underinsured motorist coverage is in effect where the liability insurer of the tort-feasor becomes insolvent within three years after such an accident. Nothing herein contained shall be construed to prevent any insurer from affording insolvency protection under terms and conditions more favorable to its insureds than is provided hereunder.

(3) In the event of payment to an insured under the coverage required by this chapter and subject to the terms and conditions of such coverage, the insurer making such payment shall, to the extent thereof, be entitled to the proceeds of any settlement or judgment resulting from the exercise of any rights of recovery of such insured against any person or organization legally responsible for the bodily injury for which such payment is made, including the proceeds recoverable from the assets of the insolvent insurer. Whenever an insurer shall make payment under the coverage required by this section and which payment is occasioned by an insolvency, such insurer's right of recovery or reimbursement shall not include any rights against the insured of said insolvent insurer, but such paying insurer shall have the right to proceed directly against the insolvent insurer or its receiver, and in pursuance of such right such paying insurer shall possess any rights which the insured of the insolvent company might otherwise have had, if the insured of the insolvent insurer had personally made the payment. [1980 c 117 § 2; 1967 ex.s. c 95 § 3.]

Effective date—1980 c 117: See note following RCW 48.22.030.

Chapter 48.44

HEALTH CARE SERVICES

Sections

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| 48.44.010 | Definitions. |
| 48.44.280 | Conversion rights of former employees, former spouses and dependents. |

48.44.010 Definitions. For the purposes of this chapter:

(1) "Health care services" means and includes medical, surgical, dental, hospital and other therapeutic services. Ambulance services licensed in this state, the services of an optometrist licensed by the state of Washington, and the services of a pharmacist registered by the state of Washington are also declared to be health care services for the purposes of this chapter.

(2) "Doctor" means any person lawfully licensed or authorized to render any health care services.

(3) "Health care service contractor" means any corporation, cooperative group, or association, which corporation, cooperative group, or association is sponsored by or otherwise intimately connected with a group of doctors licensed by the state of Washington or by a group of hospitals licensed by the state of Washington; or doctor licensed by the state of Washington; or group of doctors

licensed by the state of Washington, who or which not otherwise being engaged in the insurance business, accepts prepayment for health care services from or for the benefit of persons or groups of persons as consideration for providing such persons with any health care services. The term also includes any corporation, cooperative group, or association, sponsored by or otherwise intimately connected with a group of pharmacists registered by the state of Washington; or any pharmacist, or group of pharmacists, registered by the state of Washington; who or which not otherwise being engaged in the insurance business, accepts prepayment for health care services from or for the benefit of persons or groups of persons as consideration for providing such persons with any health care services.

(4) "Participant" means a doctor, hospital, or licensed pharmacy, drug store or dispensary, who or which has contracted in writing with a health care service contractor to accept payment from and to look solely to such contractor according to the terms of the subscriber contract for any health care services rendered to a person who has previously paid such contractor for such services. [1980 c 102 § 10; 1965 c 87 § 1; 1961 c 197 § 1; 1947 c 268 § 1; Rem. Supp. 1947 § 6131-10.]

Saving—1961 c 197: "Nothing in section 1 of this amendatory act of 1961 shall affect the qualification of any currently registered health care service contractor which qualified as such under prior law, but which would not so qualify under section 1 of this amendatory act of 1961." [1961 c 197 § 17.] This applies to 1961 c 197 § 1 amending 1947 c 268 § 1 (RCW 48.44.010).

48.44.280 Conversion rights of former employees, former spouses and dependents. Any health care service plan issued, amended, or renewed after June 12, 1980, for employees or members and their dependents shall contain provisions granting the employee or member, in the event of termination of employment or membership, the right to convert to a coverage normally offered by the health care service contractor to such employees leaving a group. The plan shall include in the conversion provisions the same conversion rights and conditions to a covered spouse and/or dependents of the employee or member in the event the covered spouse and/or dependent ceases to be a qualified family member by reason of termination of marriage or death of the employee or member. The conversion rights shall not require a physical examination, a statement of health, or other proof of insurability. [1980 c 10 § 3.]

Chapter 48.46

HEALTH MAINTENANCE ORGANIZATIONS

Sections

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| 48.46.065 | Conversion rights of former employees, former spouses and dependents. |
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48.46.065 Conversion rights of former employees, former spouses and dependents. Any group health care service plan issued, amended, or renewed after June 12, 1980, for employees or members and their dependents

shall contain provisions granting the employee or member, in the event of termination of employment or membership, the right to convert to a coverage normally offered by the health maintenance organization to such employees leaving a group. The plan shall include in the conversion provisions the same conversion rights and conditions to a covered spouse and/or dependents of the employee or member in the event the covered spouse and/or dependents ceases to be a qualified family member by reason of termination of marriage or death of the employee or member. The conversion rights shall not require a physical examination, a statement of health, or other proof of insurability. [1980 c 10 § 4.]

Chapter 48.48 STATE FIRE MARSHAL

Sections

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| 48.48.060 | Reports and investigation of fires. |
| 48.48.065 | Statistical information and reports. |
| 48.48.140 | Smoke detection devices in dwelling units— Penalty. |

48.48.060 Reports and investigation of fires. (1) The chief of each organized fire department, the sheriff or other designated county official, and the designated city or town official shall investigate the cause, origin, and extent of loss of all fires occurring within their respective jurisdictions, as determined by this subsection, and shall forthwith notify the state fire marshal of all fires of criminal, suspected, or undetermined cause occurring within their respective jurisdictions. Fire departments shall have the responsibility imposed by this subsection for areas within their jurisdictions. Sheriffs or other designated county officials shall have responsibility imposed by this subsection for county areas not within the jurisdiction of a fire department, unless such areas are within the boundaries of a city or town, in which case the designated city or town official shall have the responsibility imposed by this subsection. For the purposes of this subsection, county officials shall be designated by the county legislative authority, and city or town officials shall be designated by the appropriate city or town legislative or executive authority. In addition to the responsibility imposed by this subsection, any sheriff or chief of police may assist in the investigation of the cause, origin, and extent of loss of all fires occurring within his or her respective jurisdiction.

(2) The state fire marshal may investigate any fire for the purpose of determining its cause, origin, and the extent of the loss. The state fire marshal shall assist in the investigation of those fires of criminal, suspected, or undetermined cause when requested by the reporting agency. [1980 c 181 § 1; 1947 c 79 § .33.06; Rem. Supp. 1947 § 45.33.06.]

48.48.065 Statistical information and reports. (1) Beginning September 1, 1980, the chief of each organized fire department, or the sheriff or other designated

county official having jurisdiction over areas not within the jurisdiction of any fire department, shall report statistical information and data to the state fire marshal on each fire occurring within the official's jurisdiction. Reports shall be consistent with the national fire incident reporting system developed by the United States fire administration and rules established by the state fire marshal. The state fire marshal and the department of natural resources shall jointly determine the statistical information to be reported on fires on land under the jurisdiction of the department of natural resources.

(2) The state fire marshal shall analyze the information and data reported, compile a report, and distribute a copy annually by January 31 to each chief fire official in the state. Upon request, the state fire marshal shall also furnish a copy of the report to any other interested person at cost. [1980 c 181 § 2.]

48.48.140 Smoke detection devices in dwelling units—Penalty. (1) Smoke detection devices shall be installed inside all dwelling units:

(a) Occupied by persons other than the owner on and after December 31, 1981; or

(b) Built or manufactured in this state after December 31, 1980.

(2) The smoke detection devices shall be designed, manufactured, and installed inside dwelling units in conformance with:

(a) Nationally accepted standards; and

(b) As provided by the administrative procedure act, chapter 34.04 RCW, rules and regulations promulgated by the state fire marshal.

(3) Installation of smoke detection devices shall be the responsibility of the owner. Maintenance of smoke detection devices shall be the responsibility of the tenant, who shall maintain the device as specified by the manufacturer. At the time of a vacancy, the owner shall insure that the smoke detection device is operational prior to the reoccupancy of the dwelling unit.

(4) Any owner or tenant failing to comply with this section shall be punished by a fine of not more than fifty dollars.

(5) For the purposes of this section:

(a) "Dwelling unit" means a single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation; and

(b) "Smoke detection device" means an assembly incorporating in one unit a device which detects visible or invisible particles of combustion, the control equipment, and the alarm-sounding device, operated from a power supply either in the unit or obtained at the point of installation. [1980 c 50 § 1.]

Chapter 48.50 ARSON REPORTING IMMUNITY ACT

Sections

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| 48.50.070 | Immunity from liability. |
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48.50.070 Immunity from liability. Any licensed insurance agent, any licensed insurance broker, or any insurer or person acting in the insurer's behalf or any authorized agency which releases information, whether oral or written, under RCW 48.50.030, 48.50.040, 48.50.050, or 48.50.060 shall be immune from liability in any civil or criminal action, suit, or prosecution arising from the release of the information, unless actual malice on the part of the agent, broker, insurer, or authorized agency against the insured is shown. [1980 c 102 § 9; 1979 ex.s. c 80 § 7.]

Chapter 48.58

RIOT REINSURANCE REIMBURSEMENT

Sections

48.58.010 Riot reinsurance reimbursement—Assessments.

48.58.010 Riot reinsurance reimbursement—Assessments. (1) The commissioner may reimburse the secretary of the department of housing and urban development under the provisions of Section 1223(a)(1) of the Urban Property Protection and Reinsurance Act of 1968 (Public Law 90-448) for losses reinsured by the secretary of the department of housing and urban development and occurring in this state on or after August 1, 1968. After receipt by the state treasurer of a statement requesting reimbursement from the secretary of the department of housing and urban development and upon certification promptly made by the commissioner of insurance, hereafter referred to as the commissioner, of the correctness of the amount thereof, the commissioner is hereby authorized to provide for an assessment upon insurers authorized to do business in this state in amounts sufficient to pay reimbursement to the secretary of the department of housing and urban development: *Provided*, That the amount assessed each insurer shall be in the same proportion that the premiums written by each insurer in this state bear to the aggregate premiums written in this state by all insurance companies on those lines for which reinsurance was available in this state from the secretary of the department of housing and urban development during the preceding calendar year.

(2) In the event any insurer fails, by reason of insolvency, to pay any assessment as provided herein, the amount assessed each insurer, as computed under subsection (1) of this section, shall be immediately recalculated excluding therefrom the insolvent insurer so that its assessment is, in effect, assumed and redistributed among the remaining insurers.

(3) When assessments as provided herein are made, the individual insurer, after having paid the full amount assessed against the insurer, may deduct from future premium tax liabilities an amount not to exceed twenty percent per annum until such deductions equal the amount of the assessment levied against the insurer.

(4) This section shall cease to be of any force and effect upon termination of the Urban Property Protection

and Reinsurance Act of 1968 (Public Law 90-448), except that obligations incurred pursuant to the provisions of this section shall not be impaired by the expiration of the same. [1980 c 32 § 9; 1969 ex.s. c 140 § 1.]

Title 50

UNEMPLOYMENT COMPENSATION

Chapters

- 50.04** Definitions.
- 50.16** Funds.
- 50.20** Benefits and claims.
- 50.44** Special coverage provisions.

Chapter 50.04

DEFINITIONS

Sections

50.04.323 Wages, remuneration—Government or private retirement pension plan payments—Effect upon eligibility—Reduction in benefits—Exceptions.

50.04.323 Wages, remuneration—Government or private retirement pension plan payments—Effect upon eligibility—Reduction in benefits—Exceptions. (1) Any payments which an individual has claimed, is receiving or has received under a government or private retirement pension plan to which a base year employer has contributed on behalf of such individual shall reduce the unemployment compensation payable to him on the following basis:

(a) If such payment, prorated weekly, equals or exceeds the weekly benefit amount to which he would normally be entitled on the basis of his base year earnings then he shall be totally ineligible;

(b) If such payment, prorated weekly, is less than the weekly benefit amount to which he would normally be entitled on the basis of this title and regulations enacted pursuant thereto, his weekly benefit amount shall be reduced by the amount which his prorated weekly pension amount exceeds twelve dollars. The reduced benefit amount so computed, if not a multiple of one dollar, shall be raised to the next higher multiple of one dollar.

(2) Any amounts deducted by reason of this section shall not be available for the payment of future benefits, that is, the individual's total benefit entitlement shall be reduced by the amount of benefits paid plus any amounts deducted pursuant to this section.

(3) Payments received under the old age and survivors insurance program contained in Title II of the federal social security act, as amended, payments received on account of disability rather than on account of age or length of service and, commencing with benefit years beginning on and after July 1, 1973, payments attributable to retirement pensions which are based in full on wages earned prior to the individual's base year shall not operate to reduce an individual's weekly benefit amount.

(4) Payments claimed or received under a government or a private pension plan shall not be considered wages subject to contributions under this title nor shall such payments be considered in determining base year wages.

(5) In the event that a retroactive pension or retirement plan covers a period in which an individual received benefits under the provisions of this title, the amount in excess of the amount to which such individual would have been entitled had such retirement or pension plan been considered as provided in this section shall be recoverable under RCW 50.20.190.

(6) A lump sum payment of funds, accumulated in an employer-participating government or private retirement pension plan paid to one eligible for retirement pension, shall be prorated over the life expectancy of the retiree as determined in such a manner as the commissioner may by regulation prescribe.

(7) Subsections (1), (2), and (3) of this section shall become inoperative and the weekly benefit amount payable to an individual shall be reduced by the entire prorated weekly amount of any governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment which is based on any previous work of such individual if such reduction is required under section 3302 of the United States Internal Revenue Code as a condition for employer credits against the tax imposed by section 3301 of the United States Internal Revenue Code. [1980 c 74 § 1; 1973 2nd ex.s. c 7 § 2; 1973 1st ex.s. c 167 § 1; 1970 ex.s. c 2 § 19.]

Severability—1980 c 74: "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." [1980 c 74 § 6.]

Effective dates—1980 c 74 §§ 1, 2 and 3: "Sections 1 and 2 of this amendatory act are necessary for the immediate preservation of the public peace, health, and safety, and the support of the state government and its existing public institutions, and shall take effect with weeks of unemployment beginning after March 31, 1980. Section 3 of this amendatory act shall take effect with benefit years beginning after June 30, 1980." [1980 c 74 § 7.] This applies to the amendments to RCW 50.04.323, 50.44.050 and 50.20.120 being sections 1, 2, and 3 respectively.

Application of act—1973 2nd ex.s. c 7: See note following RCW 50.04.310.

Effective date—1970 ex.s. c 2: See note following RCW 50.04.020.

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: *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. 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. [1980 c 142 § 1; 1977 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 ex.s. c 292: See notes following RCW 50.04.116.

Effective dates—1973 c 73: See notes following RCW 50.04.030.

Chapter 50.20
BENEFITS AND CLAIMS

| | |
|-----------|---|
| Sections | |
| 50.20.050 | Disqualification for leaving work voluntarily without good cause. |
| 50.20.095 | Disqualification for attending school or institution of higher education. |
| 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 the death, illness, or disability of 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: *Provided*, That these precautions need not have been taken when they would have been a futile act, including those instances when the futility of the act was a result of a recognized labor/management dispatch system.

(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 and where, in the judgment of the department, the distance is customarily traveled by workers in the individual's job classification and labor market, 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 unreasonable 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. [1980 c 74 § 5; 1977 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.]

Severability—1980 c 74: See note following RCW 50.04.323.

Effective dates—**Construction**—1977 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 term commencing with the first week of such 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 twelve or more hours of scholastic instruction per week: *Provided*, That registration for less than twelve hours 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 50.44.037.

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. [1980 c 74 § 4; 1977 ex.s. c 33 § 8.]

Severability—1980 c 74: See note following RCW 50.04.323.

Effective dates—**Construction**—1977 ex.s. c 33: See notes following RCW 50.04.030.

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. The maximum and minimum amounts 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. The minimum amount payable weekly shall be fifteen percent of the "average weekly wage" for the calendar year preceding June 30th. If any weekly benefit, maximum benefit, or minimum 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. [1980 c 74 § 3; 1977 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.]

Severability—Effective dates—1980 c 74: See notes following RCW 50.04.323.

Effective dates—Construction—1977 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.

Severability—1951 c 265: See note following RCW 50.98.070.

Chapter 50.44

SPECIAL COVERAGE PROVISIONS

Sections

50.44.050 Benefits payable, terms and conditions.

50.44.050 Benefits payable, terms and conditions. (1) Except as otherwise provided in subsections (1), (2) and (3) of this section, 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. 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 which commences during the period between two successive academic years or terms (or, when an agreement provides instead for a similar period between two regular but not successive terms, during such period) to an individual if such individual performs such services in the

first of such academic years or terms and if there is a contract or reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms. 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.

(2) 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 RCW 50.44.037) for any week of unemployment which commences during the period between two successive academic years or during a period between two successive academic years or terms, if such individual performs such 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 such services.

(3) Benefits shall not be paid based on any services described in subsections (1) and (2) of this section for any week of unemployment which commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess.

(4) Benefits shall not be paid (as specified in subsections (1), (2), or (3) of this section) based on any services described in subsections (1) or (2) of this section to any individual who performed such services in an educational institution while in the employ of an educational service district which is established pursuant to chapter 28A.21 RCW and exists to provide services to local school districts. [1980 c 74 § 2; 1977 ex.s. c 292 § 18; 1975 1st ex.s. c 288 § 17; 1973 c 73 § 10; 1971 c 3 § 22.]

Severability—Effective dates—1980 c 74: See notes following RCW 50.04.323.

Effective dates—1977 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 dates—1973 c 73: See notes following RCW 50.04.030.

Title 51

INDUSTRIAL INSURANCE

Chapters

- 51.04 General provisions.
- 51.08 Definitions.
- 51.12 Employments and occupations covered.
- 51.16 Assessment and collection of premiums—
Payrolls and records.
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- 51.36 Medical aid.
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Chapter 51.04
GENERAL PROVISIONS

Sections

| | |
|-----------|--|
| 51.04.030 | Departmental medical aid function—Duties of director or self-insurer to keep records, pay medical bills. |
| 51.04.070 | Minor worker is sui juris—Guardianship expense. |
| 51.04.110 | Workers' compensation advisory committee—Members, terms, compensation—Duties—Expenses—Study. |

Development of comprehensive plan—Contents—Recommendations—1980 c 129: "The department shall develop a comprehensive plan including alternatives for medical, rehabilitation, and reemployment services to be presented to the appropriate committees of the legislature no later than October 1, 1980. Such plan and alternatives shall include, but not be limited to, the following:

- (1) A statement of purpose;
- (2) Specific definitions of medical, rehabilitation, and reemployment services to be provided by the state and/or employers;
- (3) A description of administrative organization, staffing, and responsibilities;
- (4) Criteria and content of individual worker rehabilitation plans;
- (5) Specific timetables for claims review and for development of rehabilitation plans based on category and type of injury;
- (6) An appeals procedure for disputes regarding rehabilitation plans;
- (7) Legislative recommendations to improve medical, rehabilitation, and reemployment services, with specific attention given to employer and employee incentives, second injury fund, and alternative methods of providing compensation for wage loss, loss of earning power, and functional disability." [1980 c 129 § 2.]

51.04.030 Departmental medical aid function—Duties of director or self-insurer to keep records, pay medical bills. 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 workers 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 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. [1980 c 14 § 1. Prior: 1977 ex.s. c 350 § 2; 1977 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.]

51.04.070 Minor worker is sui juris—Guardianship expense. 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. [1980 c 14 § 2. Prior: 1977 ex.s. c 350 § 4; 1977 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 ex.s. c 323: See notes following RCW 51.04.040.

51.04.110 Workers' compensation advisory committee—Members, terms, compensation—Duties—Expenses—Study. 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. [1980 c 14 § 3. Prior: 1977 ex.s. c 350 § 7; 1977 c 75 § 78; 1975-'76 2nd ex.s. c 34 § 150; 1975 ex.s. c 224 § 1; 1972 ex.s. c 43 § 37; 1971 ex.s. c 289 § 67.]

Legislative joint committee on workers' compensation—1980 c 129: "(1) There is hereby created the joint committee on workers' compensation to conduct a comprehensive examination of the present workers' compensation program in the state. The committee shall be bipartisan in nature and shall be composed of four senators appointed by the majority leader of the senate and four representatives appointed by the speakers of the house. The committee may appoint up to seven nonlegislators representing various interested parties to serve as ex-officio, nonvoting members.

(2) In conducting its study, the committee shall consider, but not be limited to, the following areas:

- (a) Definition, adequacy, and methods of determining benefits;
- (b) Medical, rehabilitation, and reemployment procedures and services;
- (c) Administrative organization and claims management;
- (d) Rate-making and methods of financing;
- (e) Coverage of professional athletes and the classifications and rates established for professional sports teams;
- (f) Audit and appeals procedures;
- (g) Safety standards; and
- (h) Occupational disease.

(3) The committee shall hold meetings and hearings at the times and places it designates to accomplish the purposes of this section. It shall make use of existing legislative facilities and the staff of the house and senate. The committee shall have authority to contract for expert services and opinions relevant to its study.

(4) The committee shall report its initial findings and recommendations to the legislature no later than January 1, 1981. A final report shall be submitted to the legislature no later than January 1, 1983.

(5) The committee shall cease to exist on July 1, 1983, unless extended by law for an additional fixed period of time." [1980 c 129 § 3.]

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

- 51.08.030 "Child".
51.08.178 "Wages"—Monthly wages as basis of compensation—Computation thereof.

51.08.030 "Child". "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 as a result of a physical, mental, or sensory handicap. [1980 c 14 § 4. Prior: 1977 ex.s. c 323 § 4; 1977 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 §

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7675, part. (ii) 1941 c 209 § 3, part; Rem. Supp. 1941 § 7679, part.]

Severability—Effective date—1977 ex.s. c 323: See notes following RCW 51.04.040.

Purpose—Intent—Severability—1977 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.

51.08.178 "Wages"—Monthly wages as basis of compensation—Computation thereof. (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. [1980 c 14 § 5. Prior: 1977 ex.s. c 350 § 14; 1977 ex.s. c 323 § 6; 1971 ex.s. c 289 § 14.]

Severability—Effective date—1977 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.

Chapter 51.12 EMPLOYMENTS AND OCCUPATIONS COVERED

Sections

- 51.12.110 Elective adoption—Withdrawal.

51.12.110 Elective adoption—Withdrawal. 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. [1980 c 14 § 6. Prior: 1977 ex.s. c 350 § 22; 1977 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 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.

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—Employer group plans.
- 51.16.120 Distribution of further accident cost.

51.16.035 Classification of occupations or industries—Premium rates fixed, readjusted—Rules and regulations authorized—Employer group plans. 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.

The department may insure the workers' compensation obligations of employers as a group if the following conditions are met:

- (1) All the employers in the group are members of an organization that has been in existence for at least two years;
- (2) The organization was formed for a purpose other than that of obtaining workers' compensation coverage;
- (3) The occupations or industries of the employers in the organization are substantially similar, taking into consideration the nature of the services being performed by workers of such employers;
- (4) The employers in the group constitute at least fifty percent of the total employers in such organization; and
- (5) The formation and operation of the group program in the organization will substantially improve accident prevention and claim management for the employers in the group.

In providing an employer group plan under this section, the department may consider an employer group as a single employing entity for purposes of dividends or premium discounts. [1980 c 129 § 4; 1977 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.

51.16.120 Distribution of further accident cost. (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. [1980 c 14 § 7. Prior: 1977 ex.s. c 350 § 28; 1977 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 ex.s. c 323: See notes following RCW 51.04.040.

Chapter 51.32

COMPENSATION—RIGHT TO AND AMOUNT

Sections

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| 51.32.030 | When compensation payable to employer or member of corporate employer. |
| 51.32.073 | Additional payments for prior pensioners—Premium liability of worker and employer for additional payments. |
| 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. |
| 51.32.110 | Medical examination—Refusal to submit—Traveling expenses—Pay for time lost. |

51.32.030 When compensation payable to employer or member of corporate employer. 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. [1980 c 14 § 8. Prior: 1977 ex.s. c 350 § 40; 1977 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 ex.s. c 323: See notes following RCW 51.04.040.

51.32.073 Additional payments for prior pensioners—Premium liability of worker and employer for additional payments. 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. [1980 c 14 § 9. Prior: 1977 ex.s. c 350 § 45; 1977 ex.s. c 323 § 15; 1977 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.]

Severability—Effective date—1977 ex.s. c 323: See notes following RCW 51.04.040.

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.

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: *Provided*, That attempts to return to work in the first fourteen days following the injury shall not serve to break the continuity of the period of disability if the disability continues fourteen days after the injury occurs.

(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. [1980 c 129 § 1; 1977 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.]

51.32.095 Temporary total disability—Continuation of benefits during vocational rehabilitation authorized—Expert assistance—Room and board—Costs. 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. [1980 c 14 § 10. Prior: 1977 ex.s. c 350 § 48; 1977 ex.s. c 323 § 16; 1972 ex.s. c 43 § 23; 1971 ex.s. c 289 § 12.]

Severability—Effective date—1977 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. 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. [1980 c 14 § 11. Prior: 1977 ex.s. c 350 § 50; 1977 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 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.

Chapter 51.36 MEDICAL AID

Sections

51.36.030 First aid.

51.36.030 First aid. 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. [1980 c 14 § 12. Prior: 1977 ex.s. c 350 § 58; 1977 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 ex.s. c 323: See notes following RCW 51.04.040.

Chapter 51.48 PENALTIES

Sections

51.48.050 Liability for illegal collections for medical aid.
51.48.070 Employer's responsibility for safeguard.

51.48.050 Liability for illegal collections for medical aid. 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. [1980 c 14 § 13. Prior: 1977 ex.s. c 350 § 70; 1977 ex.s. c 323 § 23; 1961 c 23 § 51.48.050; prior: 1917 c 28 § 17; RRS § 7726.]

Severability—Effective date—1977 ex.s. c 323: See notes following RCW 51.04.040.

51.48.070 Employer's responsibility for safeguard. 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. [1980 c 14 § 14. Prior: 1977 ex.s. c 350 § 72; 1977 ex.s. c 323 § 24; 1961 c 23 § 51.48.070; prior: 1911 c 74 § 9; RRS § 7683.]

Severability—Effective date—1977 ex.s. c 323: See notes following RCW 51.04.040.

Title 52

FIRE PROTECTION DISTRICTS

Chapters

- 52.12** Commissioners.
52.36 Miscellaneous provisions.

Chapter 52.12 COMMISSIONERS

Sections

- 52.12.010** Number—Qualifications—Insurance—Compensation—Service as volunteer fireman—Waiver of compensation—Terms of first commissioners.

52.12.010 **Number—Qualifications—Insurance—Compensation—Service as volunteer fireman—Waiver of compensation—Terms of first commissioners.** The affairs of the district shall be managed by a board of fire commissioners composed of three resident electors of the district. The members shall each receive twenty-five dollars per day, not to exceed seventy-five dollars per month, for attendance at board meetings and for performance of other services in behalf of the district. In addition, they shall receive necessary expenses incurred in attending meetings of the board or when otherwise engaged in district business, and shall be entitled to receive the same insurance available to all firemen of the district: *Provided*, That the premiums for such insurance, except liability insurance, shall be paid by the individual commissioners who elect to receive it. In any district which has a fire department owning and operating motor-powered fire fighting equipment and employing personnel on a full time, fully paid basis, fire commissioners, in addition to expenses as aforesaid, shall each receive twenty-five dollars per day, not to exceed one hundred twenty-five dollars per month, for attendance at board meetings and for performance of other services on behalf of the district. Any commissioner may waive all or any portion of his compensation payable under this section as to any month or months during his term of office, by a written waiver filed with the secretary as provided in this section. The waiver, to be effective, must be filed any time after the commissioner's election and prior to the date on which said compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

The board shall fix the compensation to be paid the secretary and all other agents and employees of the district. The board may, by resolution adopted by unanimous vote, authorize any of its members to serve as volunteer firemen without compensation. A commissioner actually serving as a volunteer fireman may enjoy the rights and benefits of a volunteer fireman. The first commissioners shall take office immediately when qualified in accordance with RCW 29.01.135 and shall serve until after the next general election for the selection of commissioners and until their successors have been elected and have qualified and have assumed office in accordance with RCW 29.04.170. [1980 c 27 § 1; 1979 ex.s. c 126 § 31; 1973 c 86 § 1; 1971 ex.s. c 242 § 2; 1969 ex.s. c 67 § 1; 1967 c 51 § 1; 1965 c 112 § 1; 1959 c 237 § 4; 1957 c 238 § 1; 1945 c 162 § 3; 1939 c 34 § 22; Rem. Supp. 1945 § 5654-122.]

Purpose—1979 ex.s. c 126: See RCW 29.04.170(1).

Candidates for first commissioners: RCW 52.04.070.

Terms of first elected commissioners: RCW 52.12.060.

Chapter 52.36 MISCELLANEOUS PROVISIONS

Sections

- 52.36.025** Use of equipment and personnel beyond district boundaries—Governmental function.

52.36.025 **Use of equipment and personnel beyond district boundaries—Governmental function.** Any fire protection district may permit, under conditions prescribed by the fire commissioners of the district, the use of its equipment and personnel beyond the boundaries of such district. Any use made of such equipment or personnel under the authority of this section shall be deemed an exercise of a governmental function of such district. [1980 c 43 § 1; 1969 c 88 § 2.]

Title 53 PORT DISTRICTS

Chapters

- 53.08** Powers.

Chapter 53.08 POWERS

Sections

- 53.08.220** Regulations authorized—Adoption as part of ordinance or resolution of city or county, procedure—Enforcement—Penalty for violation. (Effective until January 1, 1981.)
- 53.08.220** Regulations authorized—Adoption as part of ordinance or resolution of city or county, procedure—Enforcement—Penalty for violation. (Effective January 1, 1981.)
- 53.08.290** Intermodal movement of interstate and foreign cargo.
- 53.08.295** Passenger carrying watercraft.

53.08.220 Regulations authorized—Adoption as part of ordinance or resolution of city or county, procedure—Enforcement—Penalty for violation. (Effective until January 1, 1981.) A port district may formulate all needful regulations for the use by tenants, agents, servants, licensees, invitees, suppliers, passengers, customers, shippers, business visitors and members of the general public of any properties or facilities owned or operated by it, and request the adoption, amendment or repeal of such regulations as part of the ordinances of the city or town in which such properties or facilities are situated, or as part of the resolutions of the county, if such properties or facilities be situated outside any city or town. The port commission shall make such request by resolution after holding a public hearing on the proposed regulations, of which at least ten days' notice shall be published in a legal newspaper of general circulation in the port district. Such regulations must conform to and be consistent with federal and state law. As to properties or facilities situated within a city or town, such regulations must conform to and be consistent with the ordinances of the city or town. As to properties or facilities situated outside any city or town, such regulations must conform to and be consistent with county resolutions. Upon receiving such request, the governing body of the city, town or county, as the case may be, may adopt such regulations as part of its ordinances or resolutions, or amend or repeal such regulations in accordance with the terms of the request. Any violation of such regulations shall constitute a misdemeanor which shall be redressed in the same manner as other police regulations of the city, town or county, and it shall be the duty of all law enforcement officers to enforce such regulations accordingly. [1961 c 38 § 1.]

53.08.220 Regulations authorized—Adoption as part of ordinance or resolution of city or county, procedure—Enforcement—Penalty for violation. (Effective January 1, 1981.) A port district may formulate all needful regulations for the use by tenants, agents, servants, licensees, invitees, suppliers, passengers, customers, shippers, business visitors, and members of the general public of any properties or facilities owned or operated by it, and request the adoption, amendment, or repeal of such regulations as part of the ordinances of the city or town in which such properties or facilities are situated, or as part of the resolutions of the county, if such properties or facilities be situated outside any city or town. The port commission shall make such request by resolution after holding a public hearing on the proposed regulations, of which at least ten days' notice shall be published in a legal newspaper of general circulation in the port district. Such regulations must conform to and be consistent with federal and state law. As to properties or facilities situated within a city or town, such regulations must conform to and be consistent with the ordinances of the city or town. As to properties or facilities situated outside any city or town, such regulations must conform to and be consistent with county resolutions. Upon receiving such request, the governing body of the city, town, or county, as the case may be,

may adopt such regulations as part of its ordinances or resolutions, or amend or repeal such regulations in accordance with the terms of the request. Any violation of such regulations shall constitute a misdemeanor which shall be redressed in the same manner as other police regulations of the city, town, or county, and it shall be the duty of all law enforcement officers to enforce such regulations accordingly: *Provided*, That violation of a regulation relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of a regulation equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor. [1979 ex.s. c 136 § 103; 1961 c 38 § 1.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

53.08.290 Intermodal movement of interstate and foreign cargo. In addition to the other powers under this chapter, a port district, in connection with the operation of facilities and improvements of the district, may perform all necessary activities related to the intermodal movement of interstate and foreign cargo: *Provided*, That nothing contained herein shall authorize a port district to engage in the transportation of commodities by motor vehicle for compensation outside the boundaries of the port district. A port district may, by itself or in conjunction with public or private entities, acquire, construct, purchase, lease, contract for, provide, and operate rail services, equipment, and facilities: *Provided*, That no port district shall engage in the manufacture of rail cars for use off port property. [1980 c 110 § 2.]

Purpose—1980 c 110: "The purpose of this act is to:

- (1) Clarify existing law as to the authority of port districts to perform certain cargo movement activities and to contract for or otherwise provide facilities for rail service for the movement of such cargo; and
- (2) Provide authority for port districts to assist in development of the recreation-tourism industry by acquiring and operating certain watercraft in limited areas." [1980 c 110 § 1.] This applies to RCW 53.08.290 and 53.08.295.

53.08.295 Passenger carrying watercraft. A port district may acquire, lease, construct, purchase, maintain, and operate passenger carrying vessels on interstate navigable rivers of the state and intrastate waters of adjoining states. Service provided shall be under terms, conditions, and rates to be fixed and approved by the port commission. Operation of such vessels shall be subject to applicable state and federal laws pertaining to such service. [1980 c 110 § 3.]

Purpose—1980 c 110: See note following RCW 53.08.290.

Title 54

PUBLIC UTILITY DISTRICTS

Chapters

54.28 Privilege taxes.

Chapter 54.28
PRIVILEGE TAXES

Sections

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| 54.28.050 | Distribution of tax. (Effective September 1, 1981.) |
| 54.28.090 | Deposit of funds to credit of certain taxing districts. (Effective September 1, 1981.) |

54.28.050 Distribution of tax. (Effective September 1, 1981.) After computing the tax imposed by RCW 54.28.020, the department of revenue shall instruct the state treasurer, after placing thirty-seven and six-tenths percent in the state general fund to be dedicated for the benefit of the public schools, 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. [1980 c 154 § 8; 1977 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).]

~~Purpose—Effective date—Savings—Disposition of certain funds—Severability—1980 c 154: See notes following chapter 82.45 RCW digest.~~

~~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.~~

54.28.090 Deposit of funds to credit of certain taxing districts. (Effective September 1, 1981.) The county legislative authority of each county shall direct the county

treasurer to deposit funds to the credit of each taxing district in the county, other than school districts, according to the manner they deem most equitable; except 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 legislative authority 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. [1980 c 154 § 9; 1977 ex.s. c 366 § 5; 1957 c 278 § 10.]

~~Purpose—Effective date—Savings—Disposition of certain funds—Severability—1980 c 154: See notes following chapter 82.45 RCW digest.~~

Title 56
SEWER DISTRICTS

Chapters

- 56.12 Commissioners.**
56.20 Utility local improvement districts.

Chapter 56.12
COMMISSIONERS

Sections

| | |
|-----------|--|
| 56.12.010 | Number—Officers—Compensation—Business, proceedings, etc. |
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56.12.010 Number—Officers—Compensation—Business, proceedings, etc. The governing body of a sewer district shall be a board of commissioners consisting of three members. The commissioners shall annually elect one of their number as president and another as secretary of the board.

A district shall provide by resolution for the payment of compensation to each of its commissioners at a rate not exceeding forty dollars for each day or major part thereof devoted to the business of the district: *Provided*, That the per diem for each commissioner shall not exceed twenty-four hundred per year. In addition, the secretary may be paid a reasonable sum for clerical services. No commissioner shall be employed full time by the district.

The board shall by resolution adopt rules governing the transaction of its business and shall adopt an official seal. All proceedings shall be by resolution recorded in a book kept for that purpose, which shall be a public record. [1980 c 92 § 1; 1969 ex.s. c 148 § 7; 1959 c 103 § 4; 1955 c 373 § 1; 1945 c 140 § 8; 1941 c 210 § 9; Rem. Supp. 1945 § 9425-18.]

~~Severability—1969 ex.s. c 148: See note following RCW 56.36.010.~~

Chapter 56.20

UTILITY LOCAL IMPROVEMENT DISTRICTS

Sections

56.20.015 Certain powers of cities and water districts granted to sewer districts.

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. [1980 c 12 § 1; 1977 ex.s. c 300 § 9; 1974 ex.s. c 58 § 4.]

Title 57

WATER DISTRICTS

Chapters

57.12 Officers and elections.

Chapter 57.12

OFFICERS AND ELECTIONS

Sections

57.12.010 Commissioners—President and secretary—Compensation.

57.12.010 Commissioners—President and secretary—Compensation. The governing body of a district shall be a board of water commissioners consisting of three members. The board shall annually elect one of its members as president and another as secretary.

The board shall by resolution adopt rules governing the transaction of its business and shall adopt an official seal. All proceedings shall be by resolution recorded in a book kept for that purpose which shall be a public record.

A district shall provide by resolution for the payment of compensation to each of its commissioners at a rate not exceeding forty dollars for each day or major part thereof devoted to the business of the district: *Provided*, That the per diem for each commissioner shall not exceed twenty-four hundred dollars per year. In addition, the secretary may be paid a reasonable sum for clerical services. No commissioner shall be employed full time by the district. Each commissioner shall be reimbursed for reasonable expenses actually incurred in connection with such business, including his subsistence and lodging, while away from the commissioner's place of residence and mileage for use of a privately-owned vehicle at the mileage rate authorized in RCW 43.03.060 as now existing or hereafter amended.

The date for holding elections and taking office as herein provided shall be subject to the provisions of any consolidated election laws that may be made applicable thereto although previously enacted. [1980 c 92 § 2;

1975 1st ex.s. c 116 § 1; 1969 ex.s. c 148 § 8; 1959 c 108 § 5; 1959 c 18 § 1; 1945 c 50 § 2; 1929 c 114 § 7; Rem. Supp. 1945 § 11585. Cf. 1913 c 161 § 7.]

Title 59

LANDLORD AND TENANT

Chapters

59.20 Mobile Home Landlord-Tenant Act.

Chapter 59.20

MOBILE HOME LANDLORD-TENANT ACT

Sections

59.20.030 Definitions.
59.20.050 Written rental agreement for term of one year or more required—Waiver—Exceptions—Application of section.
59.20.070 Prohibited acts by landlord.
59.20.075 Presumption of reprisal or retaliatory action—Recovery of costs and attorney's fee.
59.20.090 Term of rental agreements—Renewal—Nonrenewal—Termination—Notices.

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 as a primary residence by 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, except where such real property is rented or held out for rent for seasonal recreational purpose only and is not intended for year-round occupancy;

(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 for purposes other than as a primary residence. [1980 c 152 § 3; 1979 ex.s. c 186 § 1; 1977 ex.s. c 279 § 3.]

Severability—1979 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." [1979 ex.s. c 186 § 30.]

59.20.050 Written rental agreement for term of one year or more required—Waiver—Exceptions—Application of section. (1) No landlord may offer a mobile home lot for rent to anyone without offering a written rental agreement for a term of one year or more. No landlord may offer to anyone any rental agreement for a term of one year or more for which the monthly rental is greater, or the terms of payment or other material conditions more burdensome to the tenant, than any month-to-month rental agreement also offered to such tenant

or prospective tenant. Anyone 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: *Provided*, That no waiver shall be valid for a period of more than one year and upon the expiration of any waiver the landlord shall again offer the tenant a term of one year or more. 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 and is in the possession of the parties: *Provided*, That if the landlord allows the tenant to move a mobile home into a mobile home park without obtaining a written rental agreement for a term of one year or more, or a written waiver of the right to a one-year term or more, the term of the tenancy shall be deemed to be for one year from the date of occupancy of the mobile home lot;

(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 upon expiration of the term of any oral or written rental agreement governing such tenancy. [1980 c 152 § 4; 1979 ex.s. c 186 § 3; 1977 ex.s. c 279 § 5.]

Severability—1979 ex.s. c 186: See note following RCW 59.20.030.

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) Any rental agreement 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;

(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;

(3) Prohibit meetings by tenants of the mobile home park to discuss mobile home living and affairs, conducted at reasonable times and in an orderly manner on

the premises, nor penalize any tenant for participation in such activities;

(4) Evict a tenant, terminate a rental agreement, decline to renew a rental agreement, increase rental or other tenant obligations, decrease services, or modify park rules in retaliation for any of the following actions on the part of a tenant taken in good faith:

(a) Filing a complaint with any state, county, or municipal governmental authority relating to any alleged violation by the landlord of an applicable statute, regulation, or ordinance;

(b) Requesting the landlord to comply with the provision of this chapter or other applicable statute, regulation, or ordinance of the state, county, or municipality;

(c) Filing suit against the landlord for any reason;

(d) Participation or membership in any homeowners association or group; or

(5) Charge to any tenant a utility fee in excess of actual utility costs. [1980 c 152 § 5; 1979 ex.s. c 186 § 5; 1977 ex.s. c 279 § 7.]

Severability—1979 ex.s. c 186: See note following RCW 59.20.030.

59.20.075 Presumption of reprisal or retaliatory action—Recovery of costs and attorney's fee. Initiation by the landlord of any action listed in RCW 59.20.070(4) within one hundred twenty days after a good faith and lawful act by the tenant or within one hundred twenty 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 one hundred twenty 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. 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, including a reasonable attorney's fee, and where the landlord prevails upon his claim he shall be entitled to recover his costs of suit, 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. [1980 c 152 § 6.]

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 of whatever duration shall be automatically renewed for the term of the original rental agreement, unless:

(a) A different specified term is agreed upon; or

(b) The landlord serves notice of termination without cause upon the tenant prior to the expiration of the rental agreement: *Provided*, That under such circumstances, at the expiration of the prior rental agreement the tenant shall be considered a month-to-month tenant upon the same terms as in the prior rental agreement until the tenancy is terminated.

(2) A landlord seeking to increase the rent upon expiration of the term of a rental agreement of any duration shall notify the tenant in writing three months prior to the effective date of any increase in rent: *Provided*, That if a landlord serves a tenant with notice of a rental increase at the same time or subsequent to serving the tenant with notice of termination without cause, such rental increase shall not become effective until the date the tenant is required to vacate the leased premises pursuant to the notice of termination or three months from the date notice of rental increase is served, whichever is later.

(3) A tenant shall notify the landlord in writing one month prior to the expiration of a rental agreement of an intention not to renew.

(4) (a) 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;

(b) 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. [1980 c 152 § 2; 1979 ex.s. c 186 § 7; 1977 ex.s. c 279 § 9.]

Severability—1979 ex.s. c 186: See note following RCW 59.20.030.

Title 66

ALCOHOLIC BEVERAGE CONTROL

Chapters

- 66.04 Definitions.
66.12 Exemptions.
66.44 Enforcement—Penalties.

Chapter 66.04 DEFINITIONS

Sections

- 66.04.010 Definitions.

66.04.010 Definitions. In this title, unless the context otherwise requires:

(1) "Alcohol" is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions and mixtures of this substance. The term "alcohol" does not include alcohol in the possession of a manufacturer or distiller of alcohol fuel, as described in RCW 66.12.130, which is intended to be denatured and used as a fuel for use in motor vehicles, farm implements, and machines or implements of husbandry.

(2) "Beer" means any beverage obtained by the alcoholic fermentation of an infusion or decoction of pure hops, or pure extract of hops and pure barley malt or other wholesome grain or cereal in pure water containing not more than four percent of alcohol by weight, and not less than one-half of one percent of alcohol by volume. For the purposes of this title any such beverage, including ale, stout and porter, containing more than four percent of alcohol by weight shall be referred to as "strong beer."

(3) "Brewer" means any person engaged in the business of manufacturing beer and malt liquor.

(4) "Board" means the liquor control board, constituted under this title.

(5) "Club" means an organization of persons, incorporated or unincorporated, operated solely for fraternal, benevolent, educational, athletic or social purposes, and not for pecuniary gain.

(6) "Consume" includes the putting of liquor to any use, whether by drinking or otherwise.

(7) "Dentist" means a practitioner of dentistry duly and regularly licensed and engaged in the practice of his profession within the state pursuant to chapter 18.32 RCW.

(8) "Distiller" means a person engaged in the business of distilling spirits.

(9) "Druggist" means any person who holds a valid certificate and is a registered pharmacist and is duly and regularly engaged in carrying on the business of pharmaceutical chemistry pursuant to chapter 18.64 RCW.

(10) "Drug store" means a place whose principal business is, the sale of drugs, medicines and pharmaceutical preparations and maintains a regular prescription department and employs a registered pharmacist during all hours the drug store is open.

(11) "Employee" means any person employed by the board, including a vendor, as hereinafter in this section defined.

(12) "Fund" means 'liquor revolving fund.'

(13) "Hotel" means every building or other structure kept, used, maintained, advertised or held out to the public to be a place where food is served and sleeping accommodations are offered for pay to transient guests, in which twenty or more rooms are used for the sleeping accommodation of such transient guests and having one or more dining rooms where meals are served to such transient guests, such sleeping accommodations and dining rooms being conducted in the same building and buildings, in connection therewith, and such structure or structures being provided, in the judgment of the board,

with adequate and sanitary kitchen and dining room equipment and capacity, for preparing, cooking and serving suitable food for its guests: *Provided further*, That in cities and towns of less than five thousand population, the board shall have authority to waive the provisions requiring twenty or more rooms.

(14) "Imprisonment" means confinement in the county jail.

(15) "Liquor" includes the four varieties of liquor herein defined (alcohol, spirits, wine and beer), and all fermented, spirituous, vinous, or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous or malt liquor, or otherwise intoxicating; and every liquid or solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semisolid, solid, or other substance, which contains more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating.

(16) "Manufacturer" means a person engaged in the preparation of liquor for sale, in any form whatsoever.

(17) "Malt liquor" means beer, strong beer, ale, stout and porter.

(18) "Package" means any container or receptacle used for holding liquor.

(19) "Permit" means a permit for the purchase of liquor under this title.

(20) "Person" means an individual, copartnership, association, or corporation.

(21) "Physician" means a medical practitioner duly and regularly licensed and engaged in the practice of his profession within the state pursuant to chapter 18.71 RCW.

(22) "Prescription" means a memorandum signed by a physician and given by him to a patient for the obtaining of liquor pursuant to this title for medicinal purposes.

(23) "Public place" includes streets and alleys of incorporated cities and towns; state or county or township highways or roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; those parts of establishments where beer may be sold under this title, soft drink establishments, public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theatres, stores, garages and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; railroad trains, stages, and other public conveyances of all kinds and character, and the depots and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, and/or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

(24) "Regulations" means regulations made by the board under the powers conferred by this title.

(25) "Restaurant" means any establishment provided with special space and accommodations where, in consideration of payment, food, without lodgings, is habitually furnished to the public, not including drug stores and soda fountains.

(26) "Sale" and "sell" include exchange, barter, and traffic; and also include the selling or supplying or distributing, by any means whatsoever, of liquor, or of any liquid known or described as beer or by any name whatever commonly used to describe malt or brewed liquor or of wine, by any person to any person; and also include a sale or selling within the state to a foreign consignee or his agent in the state.

(27) "Soda fountain" means a place especially equipped with apparatus for the purpose of dispensing soft drinks, whether mixed or otherwise.

(28) "Spirits" means any beverage which contains alcohol obtained by distillation, including wines exceeding seventeen percent of alcohol by weight.

(29) "Store" means a state liquor store established under this title.

(30) "Tavern" means any establishment with special space and accommodation for sale by the glass and for consumption on the premises, of beer, as herein defined.

(31) "Vendor" means a person employed by the board as a store manager under this title.

(32) "Winery" means a business conducted by any person for the manufacture of wine for sale, other than a domestic winery.

(33) "Domestic winery" means a place where wines are manufactured or produced within the state of Washington.

(34) "Wine" means any alcoholic beverage obtained by fermentation of fruits (grapes, berries, apples, et cetera) or other agricultural product containing sugar, to which any saccharine substances may have been added before, during or after fermentation, and containing not more than seventeen percent of alcohol by weight, including sweet wines fortified with wine spirits, such as port, sherry, muscatel and angelica, not exceeding seventeen percent of alcohol by weight.

(35) "Beer wholesaler" means a person who buys beer from a brewer or brewery located either within or beyond the boundaries of the state for the purpose of selling the same pursuant to this title, or who represents such brewer or brewery as agent.

(36) "Wine wholesaler" means a person who buys wine from a vintner or winery located either within or beyond the boundaries of the state for the purpose of selling the same not in violation of this title, or who represents such vintner or winery as agent. [1980 c 140 § 3; 1969 ex.s. c 21 § 13; 1935 c 158 § 1; 1933 ex.s. c 62 § 3; RRS § 7306-3. Formerly RCW 66.04.010 through 66.04.380.]

Effective date—1969 ex.s. c 21: "The effective date of this 1969 amendatory act is July 1, 1969." [1969 ex.s. c 21 § 15.] This applies to RCW 66.04.010, 66.24.160, 66.24.200, 66.24.210, 66.24.230, 66.24.310, 66.28.025, 66.28.030, 66.28.040, 66.28.050, 66.24.204, 66.24.206, 82.08.150, and 82.08.160.

Chapter 66.12 EXEMPTIONS

Sections

66.12.130 Alcohol for use as fuel in motor vehicles, farm implements, machines, etc.

66.12.130 Alcohol for use as fuel in motor vehicles, farm implements, machines, etc. Nothing in this title shall apply to or prevent the sale, importation, purchase, production, or blending of alcohol used solely for fuel to be used in motor vehicles, farm implements, and machines or implements of husbandry or in combination with gasoline or other petroleum products for use as such fuel. Manufacturers and distillers of such alcohol fuel are not required to obtain a license under this title. Alcohol which is produced for use as fuel shall be denatured in accordance with a formula approved by the federal bureau of alcohol, tobacco and firearms prior to the removal of the alcohol from the premises as described in the approved federal permit application. The exemptions from the state liquor control laws provided by this section only apply to distillers and manufacturers of alcohol to be used solely for fuel as long as the manufacturers and distillers are the holders of an appropriate permit issued under federal law. [1980 c 140 § 2.]

Legislative finding and declaration—1980 c 140: "The legislature finds that the production of alcohol for use as a fuel or fuel supplement is of great importance to the state. Alcohol, when used as a fuel source, is less polluting to the atmosphere than conventional fuels and its use reduces the state's dependence on limited oil resources. Production of alcohol for use as a fuel provides a new use and market for Washington agricultural products and aids Washington farmers in producing food and fiber for the citizens of the state, nation, and world. Therefore, the legislature declares public policy to be one of encouragement toward the production and use of alcohol as a fuel or fuel supplement." [1980 c 140 § 1.]

Chapter 66.44

ENFORCEMENT—PENALTIES

Sections

66.44.140 Unlawful sale, transportation of spirituous liquor without stamp or seal—Unlawful operation, possession of still or mash.

66.44.315 Repealed.

66.44.316 Musicians, disc jockeys, sound or lighting technicians eighteen years and over permitted to enter and remain upon licensed premises during employment.

66.44.140 Unlawful sale, transportation of spirituous liquor without stamp or seal—Unlawful operation, possession of still or mash. Every person who shall sell or offer for sale, or transport in any manner, any spirituous liquor, without government stamp or seal attached thereto, or who shall operate without a license, any still or other device for the production of spirituous liquor, or shall have in his possession or under his control any mash capable of being distilled into spirituous liquor except as provided in RCW 66.12.130, shall be guilty of a gross misdemeanor and upon conviction thereof shall upon his first conviction be fined not less than five hundred dollars and confined in the county jail not less than six months, and upon second and subsequent conviction

shall be fined not less than one thousand dollars and confined in the county jail not less than one year. [1980 c 140 § 4; 1955 c 289 § 4. Prior: 1939 c 172 § 6(3); 1935 c 174 § 15(3); 1933 ex.s. c 62 § 92(3); RRS § 7306-92(3).]

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

66.44.316 Musicians, disc jockeys, sound or lighting technicians eighteen years and over permitted to enter and remain upon licensed premises during employment. Notwithstanding the provisions of RCW 26.28.080 as now or hereafter amended, it is lawful for professional musicians, professional disc jockeys, or professional sound or lighting technicians actively engaged in support of professional musicians or professional disc jockeys, eighteen years of age and older, to enter and to remain in any premises licensed under the provisions of Title 66 RCW, but only during and in the course of their employment as musicians, disc jockeys, or sound or lighting technicians.

This section shall not be construed as permitting the sale or distribution of any alcoholic beverages to any person under the age of twenty-one years. [1980 c 22 § 1; 1973 1st ex.s. c 96 § 1.]

Title 67

ATHLETICS, SPORTS AND ENTERTAINMENT

Chapters

67.16 Horse racing.

Chapter 67.16

HORSE RACING

Sections

67.16.100 Gross receipts and fees—Commission's percentage—Disposition—"Fair fund" and "state trade fair fund".

67.16.110 Broadcasting and motion picture rights reserved.

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 the percentages of the gross receipts of all parimutuel machines at each race meet in accordance with RCW 67.16.105, 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 financial management, retain any sum required for working capital. [1980 c 16 § 1. Prior: 1979 c 151 § 169; 1979 c 31 § 2; 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.]

State international trade fairs: RCW 43.31.790 through 43.31.860.
Transfer of surplus funds in state trade fair fund to general fund: RCW 43.31.831 through 43.31.834.

67.16.110 Broadcasting and motion picture rights reserved. All radio broadcasting rights, and motion picture rights in connection with meets licensed hereunder are reserved to the state and the commission shall lease or license same only to the highest bidder. The exercise of such rights shall at all times be under the supervision of the commission. [1980 c 32 § 10; 1933 c 55 § 11; RRS § 8312-11.]

Title 69
FOOD, DRUGS, COSMETICS, AND POISONS

Chapters

- 69.41 Legend drugs—Prescription drugs.**
- 69.50 Uniform controlled substances act.**

Chapter 69.41

LEGEND DRUGS—PRESCRIPTION DRUGS

Sections

- 69.41.010 Definitions.**
- 69.41.050 Labeling requirements.**

IDENTIFICATION OF LEGEND DRUGS—MARKING

- 69.41.200 Requirements for identification of legend drugs—Marking.**
- 69.41.210 Definitions.**
- 69.41.220 Published lists of drug imprints—Requirements for. Drugs in violation are contraband.**
- 69.41.230 Rules—Labeling and marking.**
- 69.41.240 Exemptions.**
- 69.41.250 Exemptions.**
- 69.41.260 Effective date.**

69.41.010 Definitions. As used in this chapter:

(1) "Administer" means the direct application of a legend drug whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

- (a) A practitioner; or
- (b) The patient or research subject at the direction of the practitioner.

(2) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a legend drug, whether or not there is an agency relationship.

(3) "Dispense" means to deliver a legend drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(4) "Dispenser" means a practitioner who dispenses.

(5) "Distribute" means to deliver other than by administering or dispensing a legend drug.

(6) "Distributor" means a person who distributes.

(7) "Drug" means:

(a) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals;

(c) Substances (other than food, minerals or vitamins) intended to affect the structure or any function of the body of man or animals; and

(d) Substances intended for use as a component of any article specified in clause (a), (b), or (c) of this subsection. It does not include devices or their components, parts, or accessories.

(8) "Legend drugs" means any drugs which are required by state law or regulation of the state board of pharmacy to be dispensed on prescription only or are restricted to use by practitioners only.

(9) "Person" means individual, corporation, governmental or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(10) "Practitioner" means:

(a) A physician under chapter 18.71 RCW, an osteopathic physician or 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 registered nurse under chapter 18.88 RCW, a licensed practical

nurse under chapter 18.78 RCW, an osteopathic physician's assistant under chapter 18.57A RCW, or a physician's assistant under chapter 18.71A RCW, or a pharmacist under chapter 18.64 RCW;

(b) A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a legend drug in the course of professional practice or research in this state; and

*(c) 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. [1980 c 71 § 1; 1979 ex.s. c 139 § 1; 1973 1st ex.s. c 186 § 1.]

*Reviser's note: This subparagraph was numbered "(3)" in section 1, chapter 71, Laws of 1980 and has been changed to "(c)" as was apparently intended and to conform to standard paragraph designations.

69.41.050 Labeling requirements. To every box, bottle, jar, tube or other container of a legend drug, which is dispensed by a practitioner authorized to prescribe legend drugs, there shall be affixed a label bearing the name of the prescriber, complete directions for use, the name of the drug either by the brand or generic name and strength per unit dose, name of patient and date: *Provided*, That the practitioner may omit the name and dosage of the drug if he determines that his patient should not have this information and that, if the drug dispensed is a trial sample in its original package and which is labeled in accordance with federal law or regulation, there need be set forth additionally only the name of the issuing practitioner and the name of the patient. [1980 c 83 § 8; 1973 1st ex.s. c 186 § 5.]

IDENTIFICATION OF LEGEND DRUGS— MARKING

69.41.200 Requirements for identification of legend drugs—Marking. (1) No legend drug in solid dosage form may be manufactured or commercially distributed within this state unless it has clearly marked or imprinted on it an individual symbol, number, company name, words, letters, marking, or National Drug Code number identifying the drug and the manufacturer or distributor of such drug.

(2) No manufacturer or distributor may sell any legend drug contained within a bottle, vial, carton, or other container, or in any way affixed or appended to or enclosed within a package of any kind designed or intended for delivery in such container or package to an ultimate consumer within this state unless such container or package has clearly and permanently marked or imprinted on it an individual symbol, number, company name, words, letters, marking, or National Drug Code number identifying the drug and the manufacturer or distributor of such drug.

(3) Whenever the distributor of a legend drug does not also manufacture it, the names and places of businesses of both shall appear on the stock container or

package label in words that truly distinguish each. [1980 c 83 § 1.]

69.41.210 Definitions. The terms defined in this section shall have the meanings indicated when used in RCW 69.41.200 through 69.41.260.

(1) "Distributor" means any corporation, person, or other entity which distributes for sale a legend drug under its own label even though it is not the actual manufacturer of the legend drug.

(2) "Solid dosage form" means capsules or tablets or similar legend drug products intended for administration and which could be ingested orally.

(3) "Legend drug" means any drugs which are required by state law or regulation of the board to be dispensed as prescription only or are restricted to use by prescribing practitioners only and shall include controlled substances in Schedules II through V of chapter 69.50 RCW.

(4) "Board" means the state board of pharmacy. [1980 c 83 § 2.]

69.41.220 Published lists of drug imprints—Requirements for. Each manufacturer and/or distributor shall publish and provide to the board printed material which will identify each current imprint used by the manufacturer or distributor and the board shall be notified of any change. This information shall be provided by the board to all pharmacies licensed in the state of Washington, poison control centers, and hospital emergency rooms. [1980 c 83 § 3.]

69.41.230 Drugs in violation are contraband. Any legend drug prepared or manufactured or offered for sale in violation of this chapter or implementing rules shall be contraband and subject to seizure under the provisions of RCW 69.41.060. [1980 c 83 § 4.]

69.41.240 Rules—Labeling and marking. The board shall have authority to promulgate rules and regulations for the enforcement and implementation of RCW 69.41.050 and 69.41.200 through 69.41.260. [1980 c 83 § 5.]

69.41.250 Exemptions. (1) The board, upon application of a manufacturer, may exempt a particular legend drug from the requirements of RCW 69.41.050 and 69.41.200 through 69.41.260 on the grounds that imprinting is infeasible because of size, texture, or other unique characteristics.

(2) The provisions of RCW 69.41.050 and 69.41.200 through 69.41.260 shall not apply to any legend drug which is prepared or manufactured by a pharmacy in this state and is for the purpose of retail sale from such pharmacy and not intended for resale. [1980 c 83 § 6.]

69.41.260 Effective date. All legend drugs manufactured or distributed for resale to any entity in this state other than the ultimate consumer shall meet the requirements of RCW 69.41.050 and 69.41.200 through 69.41.260 from a date eighteen months after June 12, 1980. [1980 c 83 § 7.]

Chapter 69.50

UNIFORM CONTROLLED SUBSTANCES ACT

Sections

ARTICLE I—DEFINITIONS

69.50.101 Definitions.

ARTICLE II—STANDARDS AND SCHEDULES

69.50.204 Schedule I.

69.50.206 Schedule II.

69.50.208 Schedule III.

69.50.210 Schedule IV.

69.50.212 Schedule V.

ARTICLE IV—OFFENSES AND PENALTIES

69.50.402 Prohibited acts: B—Penalties.

ARTICLE I
DEFINITIONS**69.50.101 Definitions.** As used in this chapter:

(a) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(1) a practitioner, or

(2) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

(c) "Bureau" means the Bureau of Narcotics and Dangerous Drugs, United States Department of Justice, or its successor agency.

(d) "Controlled substance" means a drug, substance, or immediate precursor in Schedules I through V of Article II.

(e) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

(f) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

(g) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(h) "Dispenser" means a practitioner who dispenses.

(i) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(j) "Distributor" means a person who distributes.

(k) "Drug" means (1) substances recognized as drugs in the official United States Pharmacopoeia, official

Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any supplement to any of them; (2) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (3) substances (other than food) intended to affect the structure or any function of the body of man or animals; and (4) substances intended for use as a component of any article specified in clause (1), (2), or (3) of this subsection. It does not include devices or their components, parts, or accessories.

(l) "Immediate precursor" means a substance which the state board of pharmacy has found to be and by rule designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

(m) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for his own use or the preparation, compounding, packaging, or labeling of a controlled substance:

(1) by a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice, or

(2) by a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(n) "Marihuana" means all parts of the plant of the genus *Cannabis* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(o) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause 1, but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(p) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under RCW 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(q) "Opium poppy" means the plant of the genus *Papaver* L., except its seeds, capable of producing an opiate.

(r) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(s) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(t) "Practitioner" means:

(1) A physician under chapter 18.71 RCW, an osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a chiropractist under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a registered nurse under chapter 18.88 RCW, a licensed practical nurse under chapter 18.78 RCW, a pharmacist under chapter 18.64 RCW or a scientific investigator under this chapter, licensed, registered or otherwise permitted insofar as is consistent with those licensing laws to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of their professional practice or research in this state.

(2) A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.

(3) A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathy and surgery in any state which shares a common border with the state of Washington.

(u) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(v) "State", when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America.

(w) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

(x) "Board" means the state board of pharmacy.

(y) "Executive officer" means the executive officer of the state board of pharmacy. [1980 c 71 § 2; 1973 2nd ex.s. c 38 § 1; 1971 ex.s. c 308 § 69.50.101.]

Severability—1973 2nd ex.s. c 38: "If any of the provisions of this amendatory act, or its application to any person or circumstance is held invalid, the remainder of the amendatory act, or the application of the provision to other persons or circumstances, or the act prior to its amendment is not affected." [1973 2nd ex.s. c 38 § 3.] This applies to the amendments to RCW 69.50.101 and 46.61.520 by 1973 2nd ex.s. c 38.

ARTICLE II STANDARDS AND SCHEDULES

69.50.204 Schedule I. (a) The controlled substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name, are included in Schedule I.

(b) Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Acetylmethadol;
- (2) Allylprodine;
- (3) Alphacetylmethadol;
- (4) Alphameprodine;
- (5) Alphamethadol;
- (6) Benzethidine;
- (7) Betacetylmethadol;
- (8) Betameprodine;
- (9) Betamethadol;
- (10) Betaprodine;
- (11) Clonitazene;
- (12) Dextromoramide;
- (13) Diampromide;
- (14) Diethylthiambutene;
- (15) Difenoxin;
- (16) Dimenoxadol;
- (17) Dimepheptanol;
- (18) Dimethylthiambutene;
- (19) Dioxaphetyl butyrate;
- (20) Dipipanone;
- (21) Ethylmethylthiambutene;
- (22) Etonitazene;
- (23) Etoxeridine;
- (24) Furethidine;
- (25) Hydroxypethidine;
- (26) Ketobemidone;
- (27) Levomoramide;
- (28) Levophenacetylmorphin;
- (29) Morpheridine;
- (30) Noracetylmethadol;
- (31) Norlevorphanol;
- (32) Normethadone;
- (33) Norpipanone;
- (34) Phenadoxone;
- (35) Phenampromide;
- (36) Phenomorphan;
- (37) Phenoperidine;
- (38) Piritramide;

- (39) Propheptazine;
- (40) Properidine;
- (41) Propiram;
- (42) Racemoramide;
- (43) Trimeperidine.

(c) Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, their salts, isomers, and salts of isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine;
- (2) Acetyldihydrocodeine;
- (3) Benzylmorphine;
- (4) Codeine methylbromide;
- (5) Codeine-N-Oxide;
- (6) Cyprenorphine;
- (7) Desomorphine;
- (8) Dihydromorphine;
- (9) Drotebanol;
- (10) Etorphine (except hydrochloride salt);
- (11) Heroin;
- (12) Hydromorphinol;
- (13) Methyldesorphine;
- (14) Methyldihydromorphine;
- (15) Morphine methylbromide;
- (16) Morphine methylsulfonate;
- (17) Morphine-N-Oxide;
- (18) Myorphine;
- (19) Nicocodeine;
- (20) Nicomorphine;
- (21) Normorphine;
- (22) Phoclodine;
- (23) Thebacon.

(d) Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, or which contains any of their salts, isomers, and salts of isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation (For purposes of paragraph (d) of this section, only, the term "isomer" includes the optical, position, and geometric isomers.):

- (1) 3,4-methylenedioxy amphetamine;
- (2) 5-methoxy-3,4-methylenedioxy amphetamine;
- (3) 3,4,5-trimethoxy amphetamine;
- (4) 4-bromo-2,5-dimethoxy-amphetamine;
- (5) 2,5-dimethoxyamphetamine;
- (6) 4-methoxyamphetamine;
- (7) 4-methyl-2,5-dimethoxyamphetamine;
- (8) Bufotenine;
- (9) Diethyltryptamine;
- (10) Dimethyltryptamine;
- (11) Ibogaine;
- (12) Lysergic acid diethylamide;
- (13) Marihuana;
- (14) Mescaline;

(15) Peyote, meaning all parts of the plant presently classified botanically as *Lophophora Williamsii* Lemaire, whether growing or not, the seeds thereof, any extract

from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds, or extracts;

- (16) N-ethyl-3-piperidyl benzilate;
- (17) N-methyl-3-piperidyl benzilate;
- (18) Psilocybin;
- (19) Psilocyn;

(20) Tetrahydrocannabinols, synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, specifically, and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

- (i) Delta 1 - cis - or trans tetrahydrocannabinol, and their optical isomers;
- (ii) Delta 6 - cis - or trans tetrahydrocannabinol, and their optical isomers;

(iii) Delta 3.4 - cis - or trans tetrahydrocannabinol, and its optical isomers; (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered, are all included.)

- (21) Ethylamine analog of phencyclidine;
- (22) Pyrrolidine analog of phencyclidine;
- (23) Thiopene analog of phencyclidine.

(e) Depressant. Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of mecloqualone having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation. [1980 c 138 § 1; 1971 ex.s. c 308 § 69.50.204.]

69.50.206 Schedule II. (a) The drugs and other substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name designated, are included in Schedule II.

(b) Substances. (Vegetable origin or chemical synthesis.) Unless specifically excepted, any of the following substances, except those listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, naloxone, and naltrexone, and their respective salts, but including the following:

- (i) Raw opium;
- (ii) Opium extracts;
- (iii) Opium fluid extracts;
- (iv) Powdered opium;
- (v) Granulated opium;
- (vi) Tincture of opium;
- (vii) Codeine;
- (viii) Ethylmorphine;
- (ix) Etorphine hydrochloride;

- (x) Hydrocodone;
- (xi) Hydromorphone;
- (xii) Metopon;
- (xiii) Morphine;
- (xiv) Oxycodone;
- (xv) Oxymorphone; and
- (xvi) Thebaine.

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (b)(1) of this section, but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine.

(5) Concentrate of poppy straw (The crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrine alkaloids of the opium poppy.)

(c) Opiates. Unless specifically excepted or unless in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan excepted:

- (1) Alphaprodine;
- (2) Anileridine;
- (3) Bezitramide;
- (4) Dihydrocodeine;
- (5) Diphenoxylate;
- (6) Fentanyl;
- (7) Isomethadone;
- (8) Levomethorphan;
- (9) Levorphanol;
- (10) Metazocine;
- (11) Methadone;
- (12) Methadone—Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
- (13) Moramide—Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid;
- (14) Pethidine (meperidene);
- (15) Pethidine—Intermediate—A, 4-cyano-1-methyl-4-phenylpiperidine;
- (16) Pethidine—Intermediate—B, ethyl-4-phenylpiperidine-4-carboxylate;
- (17) Pethidine—Intermediate—C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (18) Phenazocine;
- (19) Piminodine;
- (20) Racemethorphan;
- (21) Racemorphan.

(d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(2) Methamphetamine, its salts, isomers, and salts of its isomers;

(3) Phenmetrazine and its salts;

(4) Methylphenidate.

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Amobarbital;

(2) Methaqualone;

(3) Pentobarbital;

(4) Phencyclidine;

(5) Phencyclidine immediate precursors;

(i) 1-phenylcyclohexylamine;

(ii) 1-piperidinocyclohexanecarbonitrile (PCC);

(6) Secobarbital. [1980 c 138 § 2; 1971 ex.s. c 308 § 69.50.206.]

69.50.208 Schedule III. (a) The drugs and other substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name designated, are included in Schedule III.

(b) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in Schedule II which compounds, mixtures, or preparations are referred to as excepted compounds in Schedule III as published in 21 CFR 1308.13(b)(1) as of April 1, 1979, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances;

(2) Benzphetamine;

(3) Chlorphentermine;

(4) Clortermine;

(5) Mazindol;

(6) Phendimetrazine.

(c) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(1) Any compound, mixture, or preparation containing:

(i) Amobarbital;

(ii) Secobarbital;

(iii) Pentobarbital;

or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule;

(2) Any suppository dosage form containing:

- (i) Amobarbital;
- (ii) Secobarbital;
- (iii) Pentobarbital;

or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository;

(3) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid;

- (4) Chlorhexadol;
- (5) Glutethimide;
- (6) Lysergic acid;
- (7) Lysergic acid amide;
- (8) Methyprylon;
- (9) Sulfondiethylmethane;
- (10) Sulfonethylmethane;
- (11) Sulfonmethane.

(d) Nalorphine.

(e) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof calculated as the free anhydrous base or alkaloid, in limited quantities as set forth in paragraph (e) of this section:

(1) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(3) Not more than 300 milligrams of dihydrocodeine per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(4) Not more than 300 milligrams of dihydrocodeine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(6) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more ingredients in recognized therapeutic amounts;

(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(8) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts. [1980 c 138 § 3; 1971 ex.s. c 308 § 69.50.208.]

69.50.210 Schedule IV. (a) The drugs and other substances listed in this section, by whatever official

name, common or usual name, chemical name, or brand name designated, are included in Schedule IV.

(b) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any difenoxin, or its salts calculated as the free anhydrous base or alkaloid, in limited quantities as follows: Not more than 1 milligram and not less than 25 micrograms of atropine sulfate per dosage unit.

(c) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Barbital;
- (2) Chloral betaine;
- (3) Chloral hydrate;
- (4) Chlordiazepoxide;
- (5) Clonazepam;
- (6) Clorazepate;
- (7) Diazepam;
- (8) Ethchlorvynol;
- (9) Ethinamate;
- (10) Flurazepam;
- (11) Lorazepam;
- (12) Mebutamate;
- (13) Meprobamate;
- (14) Methohexital;
- (15) Methylphenobarbital (mephobarbital);
- (16) Oxazepam;
- (17) Paraldehyde;
- (18) Petrichloral;
- (19) Pentobarbital;
- (20) Prazepam.

(d) Fenfluramine. Any material, compound, mixture, or preparation which contains any quantity of fenfluramine, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible.

(e) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Diethylpropion;
- (2) Phentermine;
- (3) Pemoline (including organometallic complexes and chelates thereof).

(f) Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts:

(1) Dextropropoxphene (alpha - (+) - 4 - dimethyl-amino-1, 2-diphenyl - 3 - methyl - 2 - propionoxybutane);

(2) Pentazocine. [1980 c 138 § 4; 1971 ex.s. c 308 § 69.50.210.]

69.50.212 Schedule V. (a) The drugs and other substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name designated, are included in Schedule V.

(b) Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth in this section, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

(6) Not more than 0.5 milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;

(c) Loperamide. [1980 c 138 § 5; 1971 ex.s. c 308 § 69.50.212.]

ARTICLE IV OFFENSES AND PENALTIES

69.50.402 Prohibited acts: B—Penalties. (a) It is unlawful for any person:

(1) who is subject to Article III to distribute or dispense a controlled substance in violation of RCW 69.50.308;

(2) who is a registrant, to manufacture a controlled substance not authorized by his registration, or to distribute or dispense a controlled substance not authorized by his registration to another registrant or other authorized person;

(3) who is a practitioner, to prescribe, order, dispense, administer, supply, or give to any person:

(i) any amphetamine, including its salts, optical isomers, and salts of optical isomers classified as a schedule II controlled substance by the board of pharmacy pursuant to chapter 34.04 RCW; or

(ii) any nonnarcotic stimulant classified as a schedule II controlled substance and designated as a nonnarcotic stimulant by the board of pharmacy pursuant to chapter 34.04 RCW;

except for the treatment of narcolepsy or for the treatment of hyperkinesia, or for the treatment of drug-induced brain dysfunction, or for the treatment of epilepsy, or for the differential diagnostic psychiatric evaluation of depression, or for the treatment of depression shown to be refractory to other therapeutic modalities, or for the clinical investigation of the effects of such drugs or compounds, in which case an investigative protocol therefor shall have been submitted to and reviewed and approved by the state board of pharmacy before the investigation has been begun: *Provided*, That the board of pharmacy, in consultation with the medical disciplinary board and the osteopathic disciplinary board, may establish by rule, pursuant to chapter 34.04 RCW, disease states or conditions in addition to those listed in this subsection for the treatment of which Schedule II nonnarcotic stimulants may be prescribed, ordered, dispensed, administered, supplied, or given to patients by practitioners: *And provided, further*, That investigations by the board of pharmacy of abuse of prescriptive authority by physicians, licensed pursuant to chapter 18.71 RCW, pursuant to subsection (a)(3) of this section shall be done in consultation with the medical disciplinary board;

(4) to refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice or information required under this chapter;

(5) to refuse an entry into any premises for any inspection authorized by this chapter; or

(6) knowingly to keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place, which is resorted to by persons using controlled substances in violation of this chapter for the purpose of using these substances, or which is used for keeping or selling them in violation of this chapter.

(b) Any person who violates this section is guilty of a crime and upon conviction may be imprisoned for not more than two years, fined not more than two thousand dollars, or both. [1980 c 138 § 6; 1979 ex.s. c 119 § 1; 1971 ex.s. c 308 § 69.50.402.]

Effective date—1980 c 138: "Section 6 of this 1980 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." [1980 c 138 § 7.] This emergency section made the amendments to 1980 c 138 § 6 effective March 13, 1980.

Title 70 PUBLIC HEALTH AND SAFETY

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Chapter 70.08

COMBINED CITY-COUNTY HEALTH DEPARTMENTS

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70.08.040 Director of public health—Appointment, salary, term of office. (1) Except as provided in subsection (2) of this section, the director of public health under this chapter shall be appointed by the mayor of the city of one hundred thousand population or more, such appointment to be effective only upon a majority vote confirmation of each legislative authority of said city and said county. He shall be paid such salary and allowed such expenses as shall be determined annually by the legislative authorities of said city and said county. He shall hold office for an indefinite term and may be removed at any time by the mayor of said city only for cause shown and after public hearing on charges reduced to writing, a copy of such charges having first been filed ten days prior to such public hearing with the legislative authorities of said city and of said county.

(2) Where a combined department is established under this chapter involving a city with a population of four hundred thousand or more and a class AA county in which such city is located, the director of public health under this chapter shall be appointed by the county executive of the county and the mayor of the city for a term of four years and until a successor is appointed and confirmed. The director of public health may be reappointed by the county executive of the county and the mayor of the city for additional four year terms. The appointment shall be effective only upon a majority vote confirmation of the legislative authority of the county and the legislative authority of the city. The director may be removed by the county executive of the county, after consultation with the mayor of the city, upon filing a statement of reasons therefor with the legislative authorities of the county and the city. [1980 c 57 § 1; 1949 c 46 § 4; Rem. Supp. 1949 § 6099-33.]

70.08.070 Employees may be included in city or county civil service, retirement plans. Notwithstanding any provisions to the contrary contained in any city or county charter, and to the extent provided by the city and the county pursuant to appropriate legislative enactment, employees of the combined city and county health department may be included in the civil service and retirement plans of the city or the county: *Provided*, That residential requirements for such positions shall be

coextensive with the county boundaries: *Provided further*, That the city or county is authorized to pay such parts of the expense of operating and maintaining such civil service and retirement system and to contribute to the retirement fund in behalf of employees such sums as may be agreed upon between the legislative authorities of such city and county. [1980 c 57 § 2; 1949 c 46 § 5; Rem. Supp. 1949 § 6099-34.]

70.08.080 Pooling of funds. The city by ordinance, and the county by appropriate legislative enactment, under this chapter may pool all or any part of their respective funds available for public health purposes, in the office of the city treasurer or the office of the county treasurer in a special pooling fund to be established in accordance with agreements between the legislative authorities of said city and county and which shall be expended for the combined health department. [1980 c 57 § 3; 1949 c 46 § 6; Rem. Supp. 1949 § 6099-35.]

70.08.900 Severability—1980 c 57. 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. [1980 c 57 § 4.]

Chapter 70.38

HEALTH PLANNING AND RESOURCES DEVELOPMENT

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70.38.015 Declaration of public policy. In consideration of the findings made and national health priorities declared by the congress in the National Health Planning and Resources Development Act of 1974, Public Law 93-641, it is declared to be the public policy of this state:

(1) That planning for promoting, maintaining, and assuring a high level of health for all citizens of the state, and for the provision of health services, health manpower, health facilities, and other resources is essential to the health, safety, and welfare of the people of the state. Such planning is necessary on both a state-wide and regional basis and must maintain responsiveness to changing health and social needs and conditions.

The marshaling of all health resources to assure the quality and availability of health services to every person must be the goal of such planning, which must likewise assure optimum efficiency, effectiveness, equity, coordination, and economy in development and implementation to reach that goal. Regional health planning under the provisions of this chapter and in a manner consistent with RCW 36.70.015 is declared to be a proper public purpose for the expenditure of funds of counties or other public entities interested in regional health planning;

(2) That the development and offering of new institutional health services should be accomplished in a manner which is orderly, timely, economical, and consistent with the effective development of necessary and adequate means of providing quality health care for persons to be served by such facilities without unnecessary duplication or fragmentation of such facilities;

(3) That the development of health resources, including the construction, modernization, and conversion of health facilities, should be accomplished in a planned, orderly fashion, consistent with identified priorities;

(4) That the development and maintenance of adequate health care information and statistics essential to effective health planning and resources development be accomplished;

(5) That the strengthening of competitive forces in the health services industry, wherever competition and consumer choice can constructively serve to advance the purposes of quality assurance, cost-effectiveness, and access, should be implemented.

This chapter has been updated to reflect amendments to the National Health Planning and Resources Development Act of 1974, Public Law 93-641, by the Health Planning and Resources Development Amendments of 1979, Public Law 96-79. [1980 c 139 § 1; 1979 ex.s. c 161 § 1.]

70.38.025 Definitions. When used in this chapter, the terms defined in this section shall have the meanings indicated.

(1) "Annual implementation plan" means a description of objectives which will achieve goals of the health systems plan and specific priorities among the objectives. The annual implementation plan is for a one-year period and must be reviewed and amended as necessary on an annual basis.

(2) "Board of health" means the state board of health created pursuant to chapter 43.20 RCW.

(3) "Capital expenditure" is an expenditure, including a force account expenditure (i.e., an expenditure for a construction project undertaken by a facility as its own contractor) which, under generally accepted accounting principles, is not properly chargeable as an expense of operation or maintenance. Where a person makes an acquisition under lease or comparable arrangement, or through donation, which would have required review if the acquisition had been made by purchase, such expenditure shall be deemed a capital expenditure. Capital expenditures include donations of equipment or facilities to a health care facility which if acquired directly by

such facility would be subject to certificate of need review under the provisions of this chapter and transfer of equipment or facilities for less than fair market value if a transfer of the equipment or facilities at fair market value would be subject to such review.

(4) "Council" means the state health coordinating council created in RCW 70.38.055 and described in Public Law 93-641.

(5) "Department" means the state department of social and health services.

(6) "Expenditure minimum" means, for the purposes of the certificate of need program, one hundred fifty thousand dollars for the twelve-month period beginning with October 1979, and for each twelve-month period thereafter the figure in effect for the preceding twelve-month period, adjusted to reflect the change in the preceding twelve-month period in an index established by rules and regulations by the department of social and health services for the purpose of making such adjustment.

(7) "Health care facility" means hospitals, psychiatric hospitals, tuberculosis hospitals, nursing homes, kidney disease treatment centers, ambulatory surgical facilities, rehabilitation facilities, and home health agencies, and includes such facilities when owned and operated by the state or by a political subdivision or instrumentality of the state and such other facilities as required by Public Law 93-641 and implementing regulations, but does not include Christian Science sanitoriums operated, listed, or certified by the First Church of Christ Scientist, Boston, Massachusetts.

(8) "Health maintenance organization" means a public or private organization, organized under the laws of the state, which:

(a) Is a qualified health maintenance organization under Title XIII, section 1310(d) of the Public Health Services Act; or

(b) (i) Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: Usual physician services, hospitalization, laboratory, x-ray, emergency, and preventive services, and out-of-area coverage; (ii) is compensated (except for copayments) for the provision of the basic health care services listed in (b)(i) to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health service actually provided; and (iii) provides physicians' services primarily (A) directly through physicians who are either employees or partners of such organization, or (B) through arrangements with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis).

(9) "Health services" means clinically related (i.e., preventive, diagnostic, curative, rehabilitative, or palliative) services and includes alcoholism, drug abuse, and mental health services and as defined in Public Law 93-641.

(10) "Health systems agency" means a public regional planning body or a private nonprofit corporation which

is organized and operated in a manner that is consistent with the laws of the state of Washington and Public Law 93-641 and which is capable of performing each of the functions described in RCW 70.38.085 and is capable as determined by the secretary of the United States department of health and human services, upon recommendation of the governor or of the council, of performing each of the functions described in the federal law.

(11) "Health systems plan" means a detailed statement of goals and resources required to reach those goals as described in Public Law 93-641. Goals describe a healthful environment and health systems in the health service area which, when developed, will assure that quality health services will be available and accessible in a manner which assures continuity of care, at reasonable cost, for all residents of the area; are responsive to the unique needs and resources of the health service area; take into account national guidelines for health planning policy and are responsive to state-wide health needs as determined by the department. The health systems plan also describes institutional health services and such other services as described in Public Law 96-79 as needed to provide for the well-being of persons receiving care within the health service area. The health system plan shall describe the number and type of resources including facilities, personnel, medical equipment, and other resources required to meet the goals in the health system plan and shall state the extent to which existing health care facilities are in need of modernization or conversion and the extent to which new facilities need to be constructed or acquired. The health system plan shall be developed in accordance with a format established by the council and shall be reviewed and amended as necessary but at least triennially.

(12) "Institutional health services" means health services provided in or through health care facilities and entailing annual operating costs of at least seventy-five thousand dollars for the twelve-month period beginning with October 1979, and for each twelve-month period thereafter the figure in effect for the preceding twelve-month period, adjusted to reflect the change in the preceding twelve-month period in an index established by rules and regulations by the department of social and health services.

(13) "Long-range health facility plan" means a document prepared by each hospital which contains a description of its plans for substantial changes in its facilities and services for three years.

(14) "Major medical equipment" means medical equipment which is used for the provision of medical and other health services and which costs in excess of one hundred fifty thousand dollars, except that such term does not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician's office and a hospital and it has been determined under Title XVIII of the Social Security Act to meet the requirements of paragraphs (10) and (11) of section 1861(s) of such act;

(15) "Person" means an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies, and insurance companies), the state, or a political subdivision or instrumentality of the state, including a municipal corporation or a hospital district.

(16) "Provider" generally means a health care professional or an organization, institution, or other entity providing health care but the precise definition for this term shall be in accord with Public Law 93-641.

(17) "Public Law 93-641", for the purposes of this chapter, refers to Titles XV and XVI of the Public Health Service Act as amended by the Health Planning and Resources Development Amendments of 1979 (Public Law 96-79).

(18) "State health plan" means a document, described in Public Law 96-79, developed by the department and the council in accordance with RCW 70.38.065. [1980 c 139 § 2; 1979 ex.s. c 161 § 2.]

70.38.045 Department planning and development duties and powers. The department is authorized and empowered to exercise such duties and powers as are prescribed for state health planning and development agencies in Public Law 93-641, including but not limited to the following:

(1) Conduct health planning activities, implement the state health plan and the plans of the health systems agencies within the state which relate to the government of the state, and determine state-wide health needs;

(2) Prepare and review at least triennially and revise as necessary a preliminary state health plan;

(3) Assist the council in the performance of its functions generally. In implementing the state health plan, the department shall be assisted by such other agencies of state government as the governor may designate;

(4) Serve as the designated planning agency of the state for the purposes of section 1122 of the Social Security Act, if the department maintains an agreement with the secretary, United States department of health and human services pursuant to section 1122 of Public Law 92-603, and administer a state certificate of need program as provided in RCW 70.38.105, 70.38.115, and 70.38.125;

(5) After consideration of recommendations submitted by the health systems agencies respecting proposed undertakings which are subject to certificate of need review under the provisions of this chapter, making findings as to the need for such undertakings;

(6) Review on a periodic basis, not less than every five years, at least those institutional and home health services being offered in the state with respect to which priority goals have been established in the state health plan and, after consideration of recommendations submitted by health systems agencies respecting the appropriateness of such services, make public its findings;

(7) Coordinate and consult in the conduct of its authorized activities with the Washington state hospital commission, the council, the designated state mental health authority, and such other agencies designated by the governor;

(8) Prepare an inventory of the nonfederal health care facilities located in the state and evaluate on an ongoing basis the physical condition of such facilities;

(9) Determine the state-wide health needs of the state after providing reasonable opportunity for the submission of written recommendations from the health systems agencies and such agencies as shall be designated by the governor and after consulting with the council. [1980 c 139 § 3; 1979 ex.s. c 161 § 4.]

70.38.055 Health coordinating council. (1) There is established a state health coordinating council.

(2) The council shall be composed of members who shall be appointed by the governor in accordance with the provisions of Public Law 93-641 and shall be considered appointed officials for whom compliance with section 1, chapter 104, Laws of 1975-'76 2nd ex. sess., (Ref. Bill No. 36), RCW 42.17.240, is required.

(3) The council shall, in addition to the appointed members, include as nonvoting, ex officio members the chairpersons of the house and senate committees on social and health services, the secretary of the department, the chairman of the hospital commission, or their designees, and an individual whom the chief medical director of the veterans administration shall have designated as a representative of the veterans administration.

(4) The council shall have a chairperson designated by the governor by and with the consent of the senate from among the members of the council who shall serve a one-year term.

(5) The council shall conduct all of its business meetings in public pursuant to the "Open Public Meetings Act of 1971", chapter 42.30 RCW, and shall meet at least once in each calendar quarter of a year. Books and records of the council shall be subject to public disclosure in accordance with RCW 42.17.250 through 42.17.340.

(6) Members of the council shall serve without pay, but shall be entitled to reimbursement for travel expenses incurred as provided in RCW 43.03.050 and 43.03.060.

(7) The governor shall have the power to stagger the terms of the members so that one-third thereof may be appointed for an original term of one year, one-third for an original term of two years, and one-third for an original term of three years, with all subsequent appointments to be for terms of three years. [1980 c 139 § 4; 1979 ex.s. c 161 § 5.]

70.38.065 Council duties and powers. The council is authorized and empowered to exercise such duties and powers as are required for state-wide health coordinating councils in P.L. 93-641, including but not limited to the following:

(1) Establish, in consultation with the health systems agencies and the department, a uniform format for health systems plans, review and coordinate at least triennially the health systems plan, and review at least annually the annual implementation plan of each health systems agency and report to the secretary of health and human services its comments;

(2) Prepare, review at least triennially, and revise as necessary a state health plan which shall be made up of the health systems plans of the health systems agencies and which plan may, as found necessary by the state health coordinating council, contain revisions of such health systems plans to achieve their appropriate coordination or to deal more effectively with state-wide health needs as determined by the department. The plan shall also describe the institutional health services needed to provide for the well-being of persons receiving care within the state, the number and type of resources required to meet the goals of the plan, and the extent to which existing health care facilities are in need of modernization, conversion, or closure and the extent to which new facilities need to be constructed or acquired. The state health plan, approved by the council, shall be the state health plan for the state for purposes of Public Law 93-641 after its approval by the governor;

(3) Review annually the budget of each health systems agency and report to the secretary of the United States department of health and human services its comments on such budget;

(4) Review applications submitted by the health systems agencies for planning and development grants, and report to the secretary of the United States department of health and human services its comments;

(5) Advise the department generally on the performance of its functions;

(6) Submit the approved state health plan to the governor for adoption as the state health plan for the state. The governor may disapprove the state health plan only if the governor determines the plan does not effectively meet the state-wide health needs that have been identified by the department. The governor, in disapproving a state health plan, shall make public a detailed statement of the basis for the determination that the plan does not meet such needs and shall specify the changes in the plan which the governor determines are needed to meet such needs. The plan shall then be revised after public hearing in accordance with the governor's statement.

(7) Perform such duties in connection with the state health plan as may be required as a condition to the receipt of federal funds as described in Public Law 93-641. [1980 c 139 § 5; 1979 ex.s. c 161 § 6.]

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

70.38.085 Health systems agencies—Areas—Functions. There shall be established in accordance with Public Law 93-641, and implementing regulations, health service areas within the state and health systems agencies organized and established in accordance with such law.

Each health systems agency shall have as its primary responsibility the provision of effective health planning for its health service area and the promotion of the development within the area of health services, manpower, and facilities which meet identified needs, reduce documented inefficiencies, and implement the health plans of

the agencies which shall include all classes of health care practitioners. To meet its primary responsibility, a health systems agency shall carry out such functions as are prescribed for health systems agencies in Public Law 93-641, including but not limited to the following functions:

(1) Assemble and analyze data concerning: The status and its determinants of the health of the residents of its health service area; the status of the health care delivery system in the area and the use of that system by the residents of the area; the effect which the area's health care delivery system has on the health of the residents of the area; the number, type, and location of the area's health resources including health services, manpower, and facilities; the patterns of utilization of the area's health resources; and the environmental and occupational exposure factors affecting immediate and long-term health conditions;

(2) Establish, consistent with the format established by the council, a health systems plan;

(3) Establish, annually review, and amend as necessary an annual implementation plan which describes objectives which will achieve the goals of the health systems plan and priorities among the objectives;

(4) Develop and publish specific plans and projects for achieving the objectives of the annual implementation plan;

(5) Review and make recommendations to the department respecting the need for new institutional health services proposed to be offered or developed in the health service area of such health systems agency;

(6) Review on a periodic basis, at least every five years, at least those institutional and home health services offered in the health service area of the agency and with respect to which priority goals have been established in the state health plan, and make recommendations to the department respecting the appropriateness of such services in the area; and

(7) Seek the assistance of individuals and public and private entities in the health service area, to the extent practicable, in implementing the health systems plan and annual implementation plan. [1980 c 139 § 6; 1979 ex.s. c 161 § 8.]

70.38.105 Health services and facilities requiring certificate of need. (Effective January 1, 1981.) (1) The department is authorized and directed to implement the certificate of need program in this state pursuant to the provisions of this chapter.

(2) There shall be a state certificate of need program which is consistent with the provisions of Public Law 93-641.

(3) No person shall engage in any undertaking which is subject to certificate of need review under subsection (4) of this section without first having received from the department either a certificate of need or an exception granted in accordance with this chapter.

(4) The following shall be subject to certificate of need review under this chapter:

(a) The construction, development, or other establishment of a new health care facility;

(b) Any capital expenditure by or on behalf of a health care facility which (i) substantially changes the services of the facility after January 1, 1981, or (ii) which exceeds the expenditure minimum as defined by RCW 70.38.025(6). The cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which such expenditure is made shall be included in determining the amount of the expenditure;

(c) A change in bed capacity of a health care facility which increases the total number of licensed beds or redistributes beds among facility and service categories of acute care, skilled nursing, intermediate care, and boarding home care if the bed redistribution is to be effective for a period in excess of six months;

(d) Acquisition of major medical equipment:

(i) If the equipment will be owned by or located in a health care facility; or

(ii) If, after January 1, 1981, the equipment is not to be owned by or located in a health care facility, the department finds consistent with federal regulations the equipment will be used to provide services for hospital inpatients, or the person acquiring such equipment did not notify the department of the intent to acquire such equipment at least thirty days before entering into contractual arrangements for such acquisition;

(e) Any new institutional health services which are offered in or through a health care facility, and which were not offered on a regular basis by, in, or through such health care facility within the twelve-month period prior to the time such services would be offered; and

(f) Any expenditure by or on behalf of a health care facility in excess of the expenditure minimum made in preparation for any undertaking under subsection (4) of this section and any arrangement or commitment made for financing such undertaking. Expenditures of preparation shall include expenditures for architectural designs, plans, working drawings, and specifications. The department may issue certificates of need permitting predevelopment expenditures, only, without authorizing any subsequent undertaking with respect to which such predevelopment expenditures are made.

(5) No person may divide a project in order to avoid review requirements under any of the thresholds specified in this section. [1980 c 139 § 7; 1979 ex.s. c 161 § 10.]

Effective date—1980 c 139: See RCW 70.38.916.

Effective date—1979 ex.s. c 161: See RCW 70.38.915.

70.38.111 Certificates of need—Exemptions. (1) The department shall not require a certificate of need for the offering of an inpatient institutional health service or the acquisition of major medical equipment for the provision of an inpatient institutional health service or the obligation of a capital expenditure for the provision of an inpatient institutional health service by—

(a) a health maintenance organization or a combination of health maintenance organizations if (i) the organization or combination of organizations has, in the service area of the organization or the service areas of

the organizations in the combination, an enrollment of at least fifty thousand individuals, (ii) the facility in which the service will be provided is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iii) at least seventy-five percent of the patients who can reasonably be expected to receive the institutional health service will be individuals enrolled with such organization or organizations in the combination,

(b) a health care facility if (i) the facility primarily provides or will provide inpatient health services, (ii) the facility is or will be controlled, directly or indirectly, by a health maintenance organization or a combination of health maintenance organizations which has, in the service area of the organization or service areas of the organizations in the combination, an enrollment of at least fifty thousand individuals, (iii) the facility is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iv) at least seventy-five percent of the patients who can reasonably be expected to receive the institutional health service will be individuals enrolled with such organization or organizations in the combination, or

(c) a health care facility (or portion thereof) if (i) the facility is or will be leased by a health maintenance organization or combination of health maintenance organizations which has, in the service area of the organization or the service areas of the organizations in the combination, an enrollment of at least fifty thousand individuals and, on the date the application is submitted under subsection (2) of this section, at least fifteen years remain in the term of the lease, (ii) the facility is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iii) at least seventy-five percent of the patients who can reasonably be expected to receive the institutional health service will be individuals enrolled with such organization,

if, with respect to such offering, acquisition, or obligation, the department has, upon application under subsection (2) of this section, granted an exemption from such requirement to the organization, combination of organizations, or facility.

(2) A health maintenance organization, combination of health maintenance organizations, or health care facility shall not be exempt under subsection (1) of this section from obtaining a certificate of need before offering an institutional health service, acquiring major medical equipment, or obligating capital expenditures unless—

(a) it has submitted at least thirty days prior to the offering of an institutional health service, acquiring major medical equipment, or obligating capital expenditures in excess of one hundred fifty thousand dollars an application for such exemption, and

(b) the application contains such information respecting the organization, combination, or facility and the proposed offering, acquisition, or obligation as the department may require to determine if the organization or combination meets the requirements of subsection (1)

of this section or the facility meets or will meet such requirements, and

(c) the department approves such application. The department shall approve or disapprove an application for exemption within thirty days of receipt of a completed application. In the case of a proposed health care facility (or portion thereof) which has not begun to provide institutional health services on the date an application is submitted under this subsection with respect to such facility (or portion), the facility (or portion) shall meet the applicable requirements of subsection (1) of this section when the facility first provides such services. The department shall approve an application submitted under this subsection if it determines that the applicable requirements of subsection (1) of this section are met.

(3) A health care facility (or any part thereof) or medical equipment with respect to which an exemption was granted under subsection (1) of this section may not be sold or leased and a controlling interest in such facility or equipment or in a lease of such facility or equipment may not be acquired and a health care facility described in (1)(c) which was granted an exemption under subsection (1) of this section may not be used by any person other than the lessee described in (1)(c) unless—

(a) the department issues a certificate of need approving the sale, lease, acquisition, or use, or

(b) the department determines, upon application, that (i) the entity to which the facility or equipment is proposed to be sold or leased, which intends to acquire the controlling interest, or which intends to use the facility is a health maintenance organization or a combination of health maintenance organizations which meets the requirements of (1) (a) (i), and (ii) with respect to such facility or equipment, meets the requirements of (1) (a) (ii) or (iii) or the requirements of (1) (b) (i) and (ii).

(4) In the case of a health maintenance organization, an ambulatory care facility, or a health care facility, which ambulatory or health care facility is controlled, directly or indirectly, by a health maintenance organization or a combination of health maintenance organizations, the department may under the program apply its certificate of need requirements only to the offering of inpatient institutional health services and the acquisition of major medical equipment and the obligation of capital expenditures for the offering of inpatient institutional health services, and then only to the extent that such offering, acquisition, or obligation is not exempt under the provisions of this section. [1980 c 139 § 9.]

70.38.115 Certificates of need—Procedures—Rules. (Effective January 1, 1981.) (1) Certificates of need shall be issued, denied, suspended, or revoked by the secretary of the department, or his designee, in accord with the provisions of this chapter and rules and regulations proposed by the department and adopted by the board of health pursuant to this chapter. Rules and regulations shall establish review procedures and criteria for the certificate of need program.

(2) Criteria for the review of certificate of need applications, except as provided in subsection (3) of this

section for health maintenance organizations, shall include but not be limited to consideration of the following:

- (a) The relationship of the health services being reviewed to the applicable health plans;
- (b) The relationship of services reviewed to the long-range development plan, if any, of the persons providing or proposing such services;
- (c) The need that the population served or to be served by such services has for such services;
- (d) The availability of less costly or more effective alternative methods of providing such services;
- (e) The immediate and the long-range financial feasibility of the proposal as well as the probable impact of the proposal on the cost of and charges for providing health services by the persons proposing the new institutional health service, including findings and recommendations of the Washington state hospital commission in the case of applications submitted by hospitals;
- (f) The relationship of the services proposed to be provided to the existing health care system of the area in which such services are proposed to be provided;
- (g) In the case of health services to be provided, (i) the availability of resources including health manpower, management personnel, and funds for capital and operating needs for the provision of the services, (ii) the availability of alternative uses of such resources for the provision of other health services, (iii) the effect of the means proposed for the delivery of such services on the clinical needs of health professional training programs in the area in which such services are to be provided, (iv) the extent to which health professions schools in the area will have access to the services for training purposes if such services are to be available in a limited number of facilities, and (v) the extent to which such proposed services will be accessible to all residents of the area to be served. When an application is made by an osteopathic or allopathic facility for a certificate of need to construct, expand, or modernize a health care facility, acquire major medical equipment, or add services, the need for that construction, expansion, modernization, acquisition of equipment, or addition of services shall be considered on the basis of the need for and the availability in the community of services and facilities for osteopathic and allopathic physicians and their patients. The department shall consider the application in terms of its impact on existing and proposed institutional training programs for doctors of osteopathy and medicine at the student, internship, and residency training levels;
- (h) Special needs and circumstances of those entities which provide a substantial portion of their services or resources, or both, to individuals not residing in the health service areas in which the entities are located or in adjacent health service areas;
- (i) The special needs and circumstances of health maintenance organizations;
- (j) In the case of a construction project, the costs and methods of the proposed construction, including the cost and methods of energy provision, and the probable impact of the construction project reviewed (i) on the cost of providing health services by the person proposing such

construction project and (ii) on the cost and charges to the public of providing health services by other persons;

- (k) The special needs and circumstances of osteopathic hospitals and nonallopathic services;
- (l) The special circumstances of health service institutions and the need for conserving energy;
- (m) The factors which affect the effect of competition on the supply of the health services being reviewed;
- (n) Improvements or innovations in the financing and delivery of health services which foster competition and serve to promote quality assurance and cost-effectiveness;
- (o) In the case of health services proposed to be provided, the efficiency and appropriateness of the use of existing services and facilities similar to those proposed; and
- (p) In the case of existing services or facilities, the quality of care provided by such services or facilities in the past.

(3) A certificate of need application of a health maintenance organization or a health care facility which is controlled, directly or indirectly, by a health maintenance organization, shall be approved by the department if the department finds (in accordance with criteria prescribed by the secretary of the United States department of health and human services by regulation):

- (a) Approval of such application is required to meet the needs of the members of the health maintenance organization and of the new members which such organization can reasonably be expected to enroll; and
- (b) The health maintenance organization is unable to provide, through services or facilities which can reasonably be expected to be available to the organization, its institutional health services in a reasonable and cost-effective manner which is consistent with the basic method of operation of the organization and which makes such services available on a long-term basis through physicians and other health professionals associated with it.

A health care facility (or any part thereof) or medical equipment with respect to which a certificate of need was issued under this subsection may not be sold or leased and a controlling interest in such facility or equipment or in a lease of such facility or equipment may not be acquired unless the department issues a certificate of need approving the sale, acquisition, or lease.

(4) When a hospital has developed a long-range health facility plan, pursuant to RCW 70.38.145, and the proposed new institutional health service is consistent with such plan, an expedited review process shall be instituted by the department as it has been done since the enactment of chapter 70.38 RCW in 1971.

(5) The decision of the department on a certificate of need application shall be consistent with the state health plan in effect, except in emergency circumstances which pose a threat to the public health. The department in making its final decision may issue a conditional certificate of need if it finds that the project is justified only under specific circumstances. The conditions shall directly relate to the project being reviewed. The conditions may be released if it can be substantiated that the conditions are no longer valid and the release of such

conditions would be consistent with the purposes of this chapter.

(6) Criteria adopted for review in accordance with subsection (2) of this section may vary according to the purpose for which the particular review is being conducted or the type of health service reviewed.

(7) Any applicant denied a certificate of need or whose certificate of need has been suspended or revoked shall be afforded an opportunity for administrative review in accordance with chapter 34.04 RCW and a hearing shall be held within one hundred twenty days of a request therefor.

(8) An application for a certificate of need for a capital expenditure which is required to eliminate or prevent imminent safety hazards or correct violations of applicable licensure and accreditation standards shall be approved as specified in PL 93-641, section 1527(c). [1980 c 139 § 8; 1979 ex.s. c 161 § 11.]

Effective date—1980 c 139: See RCW 70.38.916.

Effective date—1979 ex.s. c 161: See RCW 70.38.915.

70.38.125 Certificates of need—Issuance—Duration—Penalties for violations. (Effective January 1, 1981.) (1) A certificate of need shall be valid for two years: *Provided*, That one six-month extension may be made if it can be substantiated that substantial and continuing progress toward commencement of the project has been made as defined by regulations to be adopted pursuant to this chapter.

(2) A project for which a certificate of need has been issued shall be commenced during the validity period for the certificate of need.

(3) The department, in cooperation with the health systems agencies established in the state under the provision of Public Law 93-641, and the hospital commission, in the case of hospital projects, shall monitor the costs and components of approved projects to assure conformance with certificates of need that have been issued. Rules and regulations adopted shall specify when changes in the cost or components of a project require reevaluation of the project. The department may require applicants to submit periodic progress reports on approved projects or other information as may be necessary to effectuate its monitoring responsibilities.

(4) The secretary of the department, in the case of a new health facility, shall not issue any license unless and until a prior certificate of need shall have been issued by the department for the offering or development of such new health facility.

(5) Any person who engages in any undertaking which requires certificate of need review under RCW 70.38.085(4) without first having received from the department either a certificate of need or an exception granted in accordance with this chapter shall be liable to the state in an amount not to exceed one hundred dollars a day for each day of such unauthorized offering or development. Such amounts of money shall be recoverable in an action brought by the attorney general on behalf of the state in the superior court of any county in which the unauthorized undertaking occurred. Any amounts of

money so recovered by the attorney general shall be deposited in the state general fund.

(6) The department may bring any action to enjoin a violation or the threatened violation of the provisions of this chapter or any rules and regulations adopted pursuant to this chapter, or may bring any legal proceeding authorized by law, including but not limited to the special proceedings authorized in Title 7 RCW, in the superior court in the county in which such violation occurs or is about to occur, or in the superior court of Thurston county. [1980 c 139 § 10; 1979 ex.s. c 161 § 12.]

Effective date—1980 c 139: See RCW 70.38.916.

Effective date—1979 ex.s. c 161: See RCW 70.38.915.

70.38.156 Certificates of need—Savings. The enactment of this chapter as amended shall not have the effect of terminating, or in any way modifying the validity of any certificate of need which shall already have been issued prior to *the effective date of this 1980 act. [1980 c 139 § 11.]

***Reviser's note:** For "the effective date of this 1980 act", see RCW 70.38.916.

70.38.911 Severability—1980 c 139. If any provision of this 1980 act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1980 c 139 § 12.]

70.38.916 Effective date—1980 c 139. *Sections 7, 8, and 10 of this 1980 act shall take effect January 1, 1981. [1980 c 139 § 14.]

Reviser's note: *(1) "Sections 7, 8, and 10 of this 1980 act" consist of amendments to RCW 70.38.105, 70.38.115, and 70.38.125.

(2) The effective date of those remaining sections of 1980 c 139 is June 12, 1980.

Chapter 70.48

CITY AND COUNTY JAILS ACT

Sections

70.48.260

General obligation bonds authorized for jail construction, improvement, and related costs.

70.48.260 General obligation bonds authorized for jail construction, improvement, and related costs. For the purpose of providing funds for the planning, acquisition, construction, and improvement of jail buildings and necessary supporting facilities within the state, and the state jail commission's operational costs related to the review of physical plant funding applications, award of grants, and construction monitoring, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one hundred six million dollars, or so much thereof as may be required, to finance the improvements defined in this chapter and all costs incidental thereto but not including acquisition or preparation of sites. 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 the bonds to be sold. [1980 c 143 § 1; 1979 ex.s. c 232 § 2.]

person in any such place solely because he is accompanied by a guide dog. [1980 c 109 § 3; 1969 c 141 § 3.]

Chapter 70.84

BLIND, HANDICAPPED, AND DISABLED PERSONS—"WHITE CANE LAW"

Sections

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| 70.84.010 | Declaration—Policy. |
| 70.84.020 | "Guide dog" defined. |
| 70.84.030 | Guide dog—Extra charge or refusing service because of prohibited. |
| 70.84.040 | Precautions for drivers of motor vehicles approaching pedestrian who is carrying white cane or using guide dog. |
| 70.84.050 | Handicapped pedestrians not carrying white cane or using guide dog—Rights and privileges. |
| 70.84.060 | Unauthorized use of white cane or guide dog. |
| 70.84.070 | Penalty for violations. |
| 70.84.080 | Employment of blind or other handicapped persons in public service. |

70.84.010 Declaration—Policy. The legislature declares:

(1) It is the policy of this state to encourage and enable the blind, the visually handicapped, the hearing impaired, and the otherwise physically disabled to participate fully in the social and economic life of the state, and to engage in remunerative employment.

(2) As citizens, the blind, the visually handicapped, the hearing impaired, and the otherwise physically disabled have the same rights as the able-bodied to the full and free use of the streets, highways, walkways, public buildings, public facilities, and other public places.

(3) The blind, the visually handicapped, the hearing impaired, and the otherwise physically disabled are entitled to full and equal accommodations, advantages, facilities, and privileges on common carriers, airplanes, motor vehicles, railroad trains, motor buses, street cars, boats, and all other public conveyances, as well as in hotels, lodging places, places of public resort, accommodation, assemblage or amusement, and all other places to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons. [1980 c 109 § 1; 1969 c 141 § 1.]

70.84.020 "Guide dog" defined. For the purpose of this chapter, the term "guide dog" shall mean a dog which is in working harness and is trained or approved by an accredited school engaged in training dogs for the purpose of guiding blind persons or a dog which is trained or approved by an accredited school engaged in training dogs for the purpose of assisting hearing impaired persons. [1980 c 109 § 2; 1969 c 141 § 2.]

70.84.030 Guide dog—Extra charge or refusing service because of prohibited. Every totally or partially blind or hearing impaired person shall have the right to be accompanied by a guide dog in any of the places listed in RCW 70.84.010(3) without being required to pay an extra charge for the guide dog. It shall be unlawful to refuse service to a blind or hearing impaired

70.84.040 Precautions for drivers of motor vehicles approaching pedestrian who is carrying white cane or using guide dog. The driver of a vehicle approaching a totally or partially blind pedestrian who is carrying a cane predominantly white in color (with or without a red tip) or a totally or partially blind or hearing impaired pedestrian using a guide dog shall take all necessary precautions to avoid injury to such pedestrian. Any driver who fails to take such precaution shall be liable in damages for any injury caused such pedestrian. It shall be unlawful for the operator of any vehicle to drive into or upon any crosswalk while there is on such crosswalk, such pedestrian, crossing or attempting to cross the roadway, if such pedestrian indicates his intention to cross or of continuing on, with a timely warning by holding up or waving a white cane, or using a guide dog. The failure of any such pedestrian so to signal shall not deprive him of the right of way accorded him by other laws. [1980 c 109 § 4; 1971 ex.s. c 77 § 1; 1969 c 141 § 4.]

70.84.050 Handicapped pedestrians not carrying white cane or using guide dog—Rights and privileges. A totally or partially blind pedestrian not carrying a white cane or a totally or partially blind or hearing impaired pedestrian not using a guide dog in any of the places, accommodations, or conveyances listed in RCW 70.84.010, shall have all of the rights and privileges conferred by law on other persons. [1980 c 109 § 5; 1969 c 141 § 5.]

70.84.060 Unauthorized use of white cane or guide dog. It shall be unlawful for any pedestrian who is not totally or partially blind to use a white cane or any pedestrian who is not totally or partially blind or is not hearing impaired to use a guide dog in any of the places, accommodations, or conveyances listed in RCW 70.84.010 for the purpose of securing the rights and privileges accorded by the chapter to totally or partially blind or hearing impaired people. [1980 c 109 § 6; 1969 c 141 § 6.]

70.84.070 Penalty for violations. Any person or persons, firm or corporation, or the agent of any person or persons, firm or corporation, who denies or interferes with admittance to or enjoyment of the public facilities enumerated in RCW 70.84.010, or otherwise interferes with the rights of a totally or partially blind or hearing impaired person as set forth in RCW 70.84.010 shall be guilty of a misdemeanor. [1980 c 109 § 7; 1969 c 141 § 7.]

70.84.080 Employment of blind or other handicapped persons in public service. In accordance with the policy set forth in RCW 70.84.010, the blind, the visually handicapped, the hearing impaired, and the otherwise physically disabled shall be employed in the state service, in the service of the political subdivisions of the state, in the public schools, and in all other employment

supported in whole or in part by public funds on the same terms and conditions as the able-bodied, unless it is shown that the particular disability prevents the performance of the work involved. [1980 c 109 § 8; 1969 c 141 § 9.]

Chapter 70.93

MODEL LITTER CONTROL AND RECYCLING ACT

Sections

70.93.050 Enforcement of chapter. (Effective July 1, 1981.)

70.93.050 Enforcement of chapter. (Effective July 1, 1981.) The director shall designate trained employees of the department to be vested with police powers to enforce and administer the provisions of this chapter and all rules and regulations adopted thereunder. The director shall also have authority to contract with other state and local governmental agencies having law enforcement capabilities for services and personnel reasonably necessary to carry out the enforcement provisions of this chapter. In addition, state patrol officers, wildlife agents, fire wardens, deputy fire wardens and forest rangers, sheriffs and marshals and their deputies, and police officers, and those employees of the department of ecology and the parks and recreation commission vested with police powers all shall enforce the provisions of this chapter and all rules and regulations adopted thereunder and are hereby empowered to issue citations to and/or arrest without warrant, persons violating any provision of this chapter or any of the rules and regulations adopted hereunder. All of the foregoing enforcement officers may serve and execute all warrants, citations, and other process issued by the courts in enforcing the provisions of this chapter and rules and regulations adopted hereunder. In addition, mailing by registered mail of such warrant, citation, or other process to his last known place of residence shall be deemed as personal service upon the person charged. [1980 c 78 § 132; 1979 c 94 § 4; 1971 ex.s. c 307 § 5.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Chapter 70.94

WASHINGTON CLEAN AIR ACT

Sections

70.94.040 Causing or permitting air pollution unlawful—Exception.

70.94.040 Causing or permitting air pollution unlawful—Exception. Except where specified in a variance permit, as provided in RCW 70.94.181, it shall be unlawful for any person to cause air pollution or permit it to be caused in violation of this chapter, or of any ordinance, resolution, rule or regulation validly promulgated hereunder. [1980 c 175 § 2; 1967 c 238 § 3; 1957 c 232 § 4.]

[1980 RCW Supp—page 240]

Chapter 70.105

HAZARDOUS WASTE DISPOSAL

Sections

70.105.120 Authority of attorney general.
70.105.130 Department's powers as designated agency under federal act.
70.105.140 Rules implemented under RCW 70.105.130—Review.

70.105.120 Authority of attorney general. At the request of the department, the attorney general is authorized to bring such injunctive, declaratory, or other actions to enforce any requirement of this chapter. [1980 c 144 § 2.]

70.105.130 Department's powers as designated agency under federal act. (1) The department is designated as the state agency for implementing the federal resource conservation and recovery act (42 U.S.C. Sec. 6901 et seq.).

(2) The power granted to the department by this section is the authority to:

(a) Establish a permit system for owners or operators of facilities which treat, store, or dispose of dangerous wastes: *Provided*, That spent containers of pesticides or herbicides which have been used in normal farm operations and which are not extremely hazardous wastes, shall not be subject to the permit system;

(b) Establish standards for the safe transport, treatment, storage, and disposal of dangerous wastes as may be necessary to protect human health and the environment;

(c) Establish, to implement this section:

(i) A manifest system to track dangerous wastes;

(ii) Reporting, monitoring, recordkeeping, labeling, sampling requirements; and

(iii) Owner, operator, and transporter responsibility;

(d) Enter at reasonable times establishments regulated under this section for the purposes of inspection, monitoring, and sampling; and

(e) Adopt rules necessary to implement this section. [1980 c 144 § 1.]

70.105.140 Rules implemented under RCW 70.105.130—Review. Rules implementing RCW 70.105.130 shall be submitted to the house and senate committees on ecology for review prior to being adopted in accordance with chapter 34.04 RCW. [1980 c 144 § 3.]

Chapter 70.108

OUTDOOR MUSIC FESTIVALS

Sections

70.108.130 Penalty. (Effective until January 1, 1981.)
70.108.130 Penalty. (Effective January 1, 1981.)

70.108.130 Penalty. (Effective until January 1, 1981.) Any person who shall wilfully fail to comply with the rules, regulations and conditions set forth in this

chapter or who shall aid or abet such a violation or failure to comply, shall be deemed guilty of a gross misdemeanor. [1971 ex.s. c 302 § 32.]

70.108.130 Penalty. (Effective January 1, 1981.) Any person who shall wilfully fail to comply with the rules, regulations, and conditions set forth in this chapter or who shall aid or abet such a violation or failure to comply, shall be deemed guilty of a gross misdemeanor: *Provided*, That violation of a rule, regulation, or condition relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of a rule, regulation, or condition equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 is a misdemeanor. [1979 ex.s. c 136 § 104; 1971 ex.s. c 302 § 32.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

**Chapter 70.120
MOTOR VEHICLE EMISSION CONTROL**

| | |
|------------|---|
| Sections | |
| 70.120.040 | Noncompliance areas—Inspections, fees. |
| 70.120.060 | Vehicle inspections—Results—Certificate of compliance. |
| 70.120.070 | Vehicle inspections—Failed—Certificate of acceptance. |
| 70.120.140 | Ambient air monitoring in Portland-Vancouver metropolitan area—Report to legislature. |

70.120.040 Noncompliance areas—Inspections, fees. (1) The director shall designate a geographic area as being a "noncompliance area" for motor vehicle emissions if:

(a) Prior to December 31, 1982, analysis of the data recorded at the monitoring sites indicates that an air quality standard established pursuant to this chapter will probably be exceeded after December 31, 1982; or

(b) On or after December 31, 1982, the department's analysis of the data recorded at the monitoring sites indicates that such a standard will probably be exceeded, and if the department determines that the primary source of the contaminant being monitored at the sites is motor vehicle emissions: *Provided*, That the department's analysis may not be based upon data recorded at an air monitoring site for less than one year.

(2) (a) The department shall analyze information regarding the motor vehicle traffic in a noncompliance area to determine the smallest land area within whose boundaries are registered motor vehicles that contribute significantly to the violation of motor vehicle related air quality standards in the noncompliance area. The director shall declare such an area to be an emission contributing area.

(b) An emission contributing area established for a carbon monoxide or oxides of nitrogen noncompliance area must contain the noncompliance area within its boundaries.

(c) An emission contributing area established for an ozone noncompliance area located in this state need not

contain the ozone noncompliance area within its boundaries if:

It can be proven that vehicles registered in the area to be declared the emission contributing area contribute significantly to violations of the ozone air quality standard in the noncompliance area.

(d) An emission contributing area may be established in this state for violations of federal air quality standards for ozone in an adjacent state if:

(i) The United States environmental protection agency declares an area to be a nonattainment area for ozone under the provisions of the federal Clean Air Act (42 U.S.C. 7401 et. seq.) and the nonattainment area encompasses portions of both Washington and the adjacent state; and (ii) It can be proven that vehicles registered in this state contribute significantly to the violation of the federal air quality standards for ozone in the adjacent state's portion of the nonattainment area.

(3) In establishing the external boundaries of an emission contributing area, the director shall utilize the boundaries established for zip code service areas by the United States postal service.

The director shall designate areas as being noncompliance areas or emission contributing areas, and shall establish the boundaries of such areas, by rule. Notwithstanding the provisions of chapter 34.04 RCW, a rule which would designate such an area or establish or modify the boundary of such an area may not be adopted until it has been submitted to the standing committees on ecology of the house of representatives and the senate for review and approval: *Provided*, That the standing committees shall take into account alternative plans for traffic re-routing and traffic bans that may have been prepared by local municipal corporations for the purpose of satisfying federal emission guidelines.

(4) The department shall administer an emission inspection system for all motor vehicles registered within the boundaries of each such emission contributing area.

(5) The director shall authorize, by contract, one or more individuals, firms, private corporations, associations or partnerships to establish and operate inspection stations for conducting the vehicle emission tests authorized by this chapter: *Provided*, That no person engaged in the inspection of motor vehicles pursuant to subsection (5) of this section shall perform for compensation repairs on any vehicles. No public body may establish or operate such contracted inspection stations. Any such contract shall be let in accordance with the procedures established for competitive bids in chapter 43.19 RCW.

(6) The provisions of subsection (5) of this section apply to inspections conducted pursuant to this section. Those provisions also apply to inspections conducted pursuant to RCW 70.120.020(1)(a) except when the inspections are conducted for the following purposes:

- (a) Auditing;
- (b) Contractor evaluation;
- (c) Collection of data for establishing calibration and performance standards;
- (d) Public information and education; and

(e) Providing a voluntary inspection program if sufficient contractors may not be obtained for the program at a reasonable cost by July 1, 1981.

(7) The fee to be charged for emission inspections conducted pursuant to this section shall be established by the director by rule. The inspection fee shall be a standard fee applicable state-wide or throughout an emission contributing area and shall be no greater than ten dollars. A part of the fee shall be paid to the state and deposited in the general fund. [1980 c 176 § 2; 1979 ex.s. c 163 § 4.]

Expiration date—Severability—1979 ex.s. c 163: See notes following RCW 70.120.010.

70.120.060 Vehicle inspections—Results—Certificate of compliance. Before each annual inspection, a person whose motor vehicle is to be inspected at an inspection station authorized by the director under RCW 70.120.040(5) shall pay the inspection fee established under RCW 70.120.040(7). Any person whose motor vehicle is inspected at an inspection station authorized by the director shall receive the results of the inspection test. If the inspected vehicle's emissions comply with the standards established by the director, the person shall receive a dated certificate of compliance. If the inspected vehicle's emissions do not comply with those standards, one reinspection of the vehicle's emission shall be afforded without charge. [1980 c 176 § 3; 1979 ex.s. c 163 § 6.]

Expiration date—Severability—1979 ex.s. c 163: See notes following RCW 70.120.010.

70.120.070 Vehicle inspections—Failed—Certificate of acceptance. Any person:

(1) Whose motor vehicle is tested pursuant to RCW 70.120.060 and fails to comply with the emission standards established for the vehicle;

(2) Who, following such a test, expends more than fifty dollars for repairs and/or parts solely devoted to meeting the emission standards; and

(3) Whose vehicle is inspected again but again fails, may be issued a certificate of acceptance. To receive the certificate, the person must document the expenditure and the purpose of the expenditure to the satisfaction of the department. [1980 c 176 § 4; 1979 ex.s. c 163 § 7.]

Expiration date—Severability—1979 ex.s. c 163: See notes following RCW 70.120.010.

70.120.140 Ambient air monitoring in Portland-Vancouver metropolitan area—Report to legislature. The department shall establish and maintain in the Washington portion of the Portland-Vancouver metropolitan area not less than three ambient air monitoring devices for ozone, not less than three ambient air monitoring devices for hydrocarbons, and not less than two ambient air monitoring devices for oxides of nitrogen.

The department shall report annually to the legislature regarding the effect on air quality of vehicle emission control and other air quality programs in that metropolitan area and in the Washington portion of the

area as indicated by the data recorded by the monitoring devices. [1980 c 176 § 5.]

Title 71

MENTAL ILLNESS AND INEBRIACY

Chapters

71.20 State and local services for mentally retarded and developmentally disabled.

Chapter 71.20

STATE AND LOCAL SERVICES FOR MENTALLY RETARDED AND DEVELOPMENTALLY DISABLED

Sections

71.20.110 Tax levy directed—Allocation of funds for federal matching funds purposes.

71.20.110 Tax levy directed—Allocation of funds for federal matching funds purposes. In order to provide additional funds for the coordination of community mental retardation and other developmental disability services and to provide community mental retardation, other developmental disability, or mental health services, the board of county commissioners of each county in the state shall budget and levy annually a tax in a sum equal to the amount which would be raised by a levy of two and one-half cents per thousand dollars of assessed value against the taxable property in the county to be used for such purposes: *Provided*, That all or part of the funds collected from the tax levied for the purposes of this section may be transferred to the state of Washington, department of social and health services, for the purpose of obtaining federal matching funds to provide and coordinate community mental retardation, other developmental disability, and mental health services. In the event a county elects to transfer such tax funds to the state for this purpose, the state shall grant these moneys and the additional funds received as matching funds to service-providing community agencies or community boards in the county which has made such transfer, pursuant to the plan approved by the county, as provided by chapters *71.16, 71.20, 71.24, and 71.28 RCW, all as now or hereafter amended.

The amount of a levy allocated to the purposes specified in this section may be reduced in the same proportion as the regular property tax levy of the county is reduced by chapter 84.55 RCW. [1980 c 155 § 5; 1974 ex.s. c 71 § 8; 1973 1st ex.s. c 195 § 85; 1971 ex.s. c 84 § 1; 1970 ex.s. c 47 § 8; 1967 ex.s. c 110 § 16.]

***Reviser's note:** Chapter 71.16 RCW was repealed by 1979 c 141 § 386.

Intent—Effective date—Applicability—1980 c 155: See notes following RCW 84.40.030.

Severability—1974 ex.s. c 71: See note following RCW 71.20.015.

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Title 72
STATE INSTITUTIONS

Chapters

- 72.05** Children and youth services.
72.64 Labor and employment of prisoners.

Chapter 72.05**CHILDREN AND YOUTH SERVICES****Sections**

- 72.05.010 Declaration of purpose.
72.05.140 Educational facilities and programs for the deaf and blind—Teachers' qualifications, salaries.

72.05.010 Declaration of purpose. The purposes of RCW 72.05.010 through 72.05.210 are: To provide for every child with behavior problems, mentally and physically handicapped persons, and deaf and blind children, within the purview of RCW 72.05.010 through 72.05.210, as now or hereafter amended, such care, guidance and instruction, control and treatment as will best serve the welfare of the child or person and society; to insure nonpolitical and qualified operation, supervision, management, and control of the Green Hill school, the Maple Lane school, the Naselle Youth Camp, the Mission Creek Youth Camp, Echo Glen, the Cascadia Diagnostic Center, Lakeland Village, Rainier school, the Yakima Valley school, Interlake school, Fircrest school, the Francis Haddon Morgan Center, the Child Study and Treatment Center and Secondary School of Western State Hospital, the state school for the blind, the state school for the deaf, and like residential state schools, camps and centers hereafter established, and to place them under the department of social and health services; and to provide for the persons committed or admitted to those schools that type of care, instruction, and treatment most likely to accomplish their rehabilitation and restoration to normal citizenship. [1980 c 167 § 7; 1979 ex.s. c 217 § 7; 1979 c 141 § 177; 1959 c 28 § 72.05.010. Prior: 1951 c 234 § 1.]

Effective date—Severability—1979 ex.s. c 217: See notes following RCW 28A.58.770.

72.05.140 Educational facilities and programs for the deaf and blind—Teachers' qualifications, salaries. The department, in order to provide educational facilities and programs for persons admitted or committed to the state schools for the deaf and blind, is authorized either to:

- (1) Enter into an agreement with the school district within which the institution is situated, or
- (2) Provide a comprehensive school program in connection with any institution as if that institution were itself a local school system.

In the event that either option is exercised, all teachers shall meet all certification requirements and the program shall conform to the usual standards defined by

law or by regulations of the state board of education or the office of the state superintendent of public instruction and/or other recognized national certifying agencies. Commencing with the 1981–82 school year, and each school year thereafter, salaries of all certificated employees shall be set so as to conform to and be contemporary with salaries paid to other certificated employees of similar background and experience in the school district in which the program or facility is located. [1980 c 58 § 1; 1979 ex.s. c 217 § 9; 1979 c 141 § 180; 1959 c 28 § 72.05.140. Prior: 1951 c 234 § 14. Formerly RCW 43.19.380.]

Effective date—Severability—1979 ex.s. c 217: See notes following RCW 28A.58.770.

Employment of teachers—Exceptions: RCW 72.01.200.

Chapter 72.64**LABOR AND EMPLOYMENT OF PRISONERS****Sections**

- 72.64.110 Contracts to furnish county prisoners confinement, care, and employment—Reimbursement by county—Sheriff's order—Return of prisoner.

72.64.110 Contracts to furnish county prisoners confinement, care, and employment—Reimbursement by county—Sheriff's order—Return of prisoner. (1) The secretary may enter into a contract with any county of the state, upon the request of the sheriff thereof, wherein the secretary agrees to furnish confinement, care, treatment, and employment of county prisoners. The county shall reimburse the state for the cost of such services. Each county shall pay to the state treasurer the amounts found to be due.

(2) The secretary shall accept such county prisoner if he believes that the prisoner can be materially benefited by such confinement, care, treatment and employment, and if adequate facilities to provide such care are available. No such person shall be transported to any facility under the jurisdiction of the secretary until the secretary has notified the referring court of the place to which said person is to be transmitted and the time at which he can be received.

(3) The sheriff of the county in which such an order is made placing a misdemeanor in a jail camp pursuant to this chapter, or any other peace officer designated by the court, shall execute an order placing such county prisoner in the jail camp or returning him therefrom to the court.

(4) The secretary may return to the committing authority, or to confinement according to his sentence, any person committed or transferred to a regional jail camp pursuant to this chapter when there is no suitable employment or when such person is guilty of any violation of rules and regulations of the regional jail camp. [1980 c 17 § 1. Prior: 1979 c 147 § 1; 1979 c 141 § 273; 1961 c 171 § 5.]

Title 73

VETERANS AND VETERANS' AFFAIRS

Chapters

- 73.04 General provisions.
73.08 Veterans' relief.

Chapter 73.04

GENERAL PROVISIONS

Sections

- 73.04.110 Free motor vehicle licenses for certain disabled veterans—Penalty for unauthorized use.

73.04.110 Free motor vehicle licenses for certain disabled veterans—Penalty for unauthorized use. Any veteran who is a veteran of any war of the United States, or of any military campaign for which a campaign ribbon shall have been awarded, and has been awarded an honorable discharge, who submits to the director of licensing satisfactory proof that he or she is receiving compensation or a pension from the veterans administration or any branch of the armed forces of the United States for the loss of or the loss of the use of both arms or legs or one arm and one leg or a loss or use of one arm or one leg that precludes locomotion without the use of or aid of braces, crutches, canes, a wheelchair, or a permanent prosthesis; he or she has become unemployable; or he or she has become blind in both eyes as the result of military service, shall be entitled to have issued to him or her by the director of licensing general license plates or license plates with distinguishing marks, letters, or numerals indicating that the motor vehicle is owned by a disabled veteran. This license shall be issued annually for one vehicle for personal use without the payment of any license fees or excise tax thereon. Whenever any person who has been issued license plates under the provisions of this section applies to the department for transfer of such plates to a subsequently acquired motor vehicle, a transfer fee of five dollars shall be charged in addition to all other appropriate fees.

Any person who has been issued free motor vehicle license plates under this section prior to June 12, 1980, shall continue to be eligible for the annual free license plates.

For the purposes of this section, "blind" shall mean that definition of "blind" utilized by the state of Washington in determining eligibility for financial assistance to the blind under Title 74 RCW.

Any unauthorized use of a special plate is a gross misdemeanor. [1980 c 88 § 2; 1979 c 158 § 221; 1972 ex.s. c 60 § 1; 1971 ex.s. c 193 § 1; 1951 c 206 § 1; 1949 c 178 § 1; Rem. Supp. 1949 § 6360-50-1.]

Chapter 73.08

VETERANS' RELIEF

Sections

- 73.08.080 Tax levy authorized.

73.08.080 Tax levy authorized. The boards of county commissioners of the several counties in this state shall levy, in addition to the taxes now levied by law, a tax in a sum equal to the amount which would be raised by not less than one and one-eighth cents per thousand dollars of assessed value, and not greater than twenty-seven cents per thousand dollars of assessed value against the taxable property of their respective counties, to be levied and collected as now prescribed by law for the assessment and collection of taxes, for the purpose of creating the veteran's relief fund for the relief of honorably discharged veterans who served in the armed forces of the United States in the Civil War, in the war of Mexico or in any of the Indian wars, or the Spanish-American war or the Philippine insurrection, in the First World War, or Second World War or Korean conflict, or Viet Nam conflict, and the indigent wives, husbands, widows, widowers and minor children of such indigent or deceased veterans, to be disbursed for such relief by such board of county commissioners: *Provided*, That if the funds on deposit, less outstanding warrants, residing in the veteran's relief fund on the first Tuesday in September exceed the expected yield of one and one-eighth cents per thousand dollars of assessed value against the taxable property of the county, the county commissioners may levy a lesser amount: *Provided further*, That the costs incurred in the administration of said veteran's relief fund shall be computed by the county treasurer not less than annually and such amount may then be transferred from the veteran's relief fund as herein provided for to the county current expense fund.

The amount of a levy allocated to the purposes specified in this section may be reduced in the same proportion as the regular property tax levy of the county is reduced by chapter 84.55 RCW. [1980 c 155 § 6; 1973 2nd ex.s. c 4 § 5; 1973 1st ex.s. c 195 § 86; 1970 ex.s. c 47 § 9; 1969 c 57 § 1; 1945 c 144 § 7; 1921 c 41 § 7; 1919 c 83 § 7; 1907 c 64 § 7; 1893 c 37 § 2; 1888 p 210 § 7; Rem. Supp. 1945 § 10742. Formerly RCW 73.08.020.]

Intent—Effective date—Applicability—1980 c 155: See notes following RCW 84.40.030.

Emergency—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.

Title 74

PUBLIC ASSISTANCE

Chapters

- 74.04 General provisions—Administration.
74.08 Eligibility generally—Standards of assistance—Old age assistance.
74.09 Medical care.
74.15 Agencies—Children, expectant mothers, developmentally disabled—Care, placement.
74.16 Aid to blind persons—Washington state commission for the blind.

- 74.26 Services for children with multiple handicaps.
- 74.38 Senior citizens services act.
- 74.42 Nursing homes—Resident care, operating standards.
- 74.46 Nursing home auditing and cost reimbursement act of 1980.

Chapter 74.04

GENERAL PROVISIONS—ADMINISTRATION

Sections

- 74.04.001 Submission of proposed rules for adoption in 1981.
- 74.04.005 Definitions (as amended by 1980 c 84).
- 74.04.005 Definitions (as amended by 1980 c 174).
- 74.04.300 Recovery of payments improperly received—Lien.

74.04.001 Submission of proposed rules for adoption in 1981. (1) Not later than September 1, 1980, the secretary and the commissioner of the employment security department shall jointly submit proposed rules regarding unemployable persons, as set forth in subsection (3) of this section, to the standing committees on social and health services and appropriations in the house of representatives and social and health services and ways and means in the senate for review. Proposed rules shall be reviewed by the legislative committees by February 1, 1981 and shall subsequently be adopted pursuant to chapter 34.04 RCW and will become effective July 1, 1981.

(2) The secretary and the commissioner of the employment security department shall make periodic reports to the committees of the legislature referred to in subsection (1) as to the progress in the development of such rules.

(3) The rules required by subsection (1) of this section shall include the following:

(a) A uniform definition of unemployable persons, which definition shall include physical, mental, or other personal obstacle or obstacles to any (i) employment or (ii) work training opportunity: *Provided*, That any definition shall discourage the continued classification of an individual as unemployable if incapacity or infirmity is correctable through treatment or use of corrective aids unless such disqualifying condition or conditions shall persist beyond a reasonable period of time as determined pursuant to the rules adopted hereunder.

(b) A system of review of such unemployable persons for the purpose of determining the continuing existence of such condition or conditions serving as obstacles to any (i) employment or (ii) work training opportunity. [1980 c 174 § 2.]

74.04.005 Definitions (as amended by 1980 c 84). For the purposes of this title, unless the context indicates otherwise, the following definitions shall apply:

- (1) "Public assistance" or "assistance"—Public aid to persons in need thereof for any cause, including services, medical care, assistance grants, disbursing orders, work relief, general assistance and federal-aid assistance.
- (2) "Department"—The department of social and health services.
- (3) "County or local office"—The administrative office for one or more counties or designated service areas.
- (4) "Secretary"—The secretary of social and health services.

(5) "Federal-aid assistance"—The specific categories of assistance for which provision is made in any federal law existing or hereafter passed by which payments are made from the federal government to the state in aid or in respect to payment by the state for public assistance rendered to any category of needy persons for which provision for federal funds or aid may from time to time be made.

(6) "General assistance"—Shall include aid to unemployable persons and unemployed employable persons who are not eligible to receive or are not receiving federal-aid assistance.

(a) "Unemployable persons" are those persons who by reason of bodily or mental infirmity or other cause are substantially incapacitated from gainful employment.

(b) "Unemployed employable persons" are those persons who although capable of gainful employment are unemployed.

(7) "Medical indigents"—Are persons without income or resources sufficient to secure necessary medical services.

(8) "Applicant"—Any person who has made a request, or on behalf of whom a request has been made, to any county or local office for assistance.

(9) "Recipient"—Any person receiving assistance and in addition those dependents whose needs are included in the recipient's assistance.

(10) "Requirement"—Items of goods and services included in the state department of social and health services standards of assistance and required by an applicant or recipient to maintain a defined standard of living.

(11) "Resource"—Any asset, tangible or intangible, owned by or available to the applicant at the time of application, which can be applied toward meeting the applicant's need, either directly or by conversion into money or its equivalent: *Provided*, That an applicant may retain the following described resources and not be ineligible for public assistance because of such resources.

(a) A home, which is defined as real property owned and used by an applicant or recipient as a place of residence, together with a reasonable amount of property surrounding and contiguous thereto, which is used by and useful to the applicant. Whenever a recipient shall cease to use such property for residential purposes, either for himself or his dependents, the property shall be considered as income which can be made available to meet need, and if the recipient or his dependents absent themselves from the home for a period of ninety consecutive days such absence, unless due to hospitalization or health reasons or a natural disaster, shall raise a rebuttable presumption of abandonment: *Provided*, That if in the opinion of three physicians the recipient will be unable to return to the home during his lifetime, and the home is not occupied by a spouse or dependent children or disabled sons or daughters, such property shall be considered as income which can be made available to meet need.

(b) Household furnishings and personal effects and other personal property having great sentimental value to the applicant or recipient.

(c) Term and burial insurance for use of the applicant or recipient.

(d) Vehicle(s) used and useful having an equity value not to exceed one thousand five hundred dollars.

(e) Life insurance having a cash surrender value not to exceed seven hundred fifty dollars until July 1, 1981, and thereafter one thousand five hundred dollars.

(f) Cash, marketable securities, and any excess of values exempted under (d) and (e) of this section, not to exceed seven hundred fifty dollars for a single person or one thousand two hundred fifty dollars for a family unit of two or more until July 1, 1981, and thereafter one thousand five hundred dollars for a single person or two thousand two hundred fifty dollars for a family unit of two or more.

(g) If an applicant for or recipient of public assistance possesses property and belongings in excess of the ceiling value, such value shall be used in determining the need of the applicant or recipient: *Provided*, That in the determination of need of applicants for or recipients of general assistance for unemployed employables no resources or income shall be considered as exempt per se, but the department may by rule and regulation adopt standards which will permit the exemption of the home and personal property and belongings from consideration as an available resource or income when such resources or income are determined to be necessary to the applicant's or recipient's restoration to independence. The department may by rule and regulation exempt personal property and belongings and income-producing property which can be used by the applicant or recipient to decrease his or her need for public assistance or aid in rehabilitating the applicant or recipient or his or her dependents.

(12) "Income"—All appreciable gains in real or personal property (cash or kind) or other assets, which are received by or become available for use and enjoyment by an applicant or recipient after applying for or receiving public assistance: *Provided*, That all necessary expenses that may reasonably be attributed to the earning of income shall be considered in determining net income: *Provided further*, That the department may by rule and regulation exempt income received by an applicant for or recipient of public assistance which can be used by him to decrease his need for public assistance or to aid in rehabilitating him or his dependents, but such exemption shall not, unless otherwise provided in this title, exceed the exemptions of resources granted under this chapter to an applicant for public assistance: *Provided further*, That in determining the amount of assistance to which a recipient of aid to families with dependent children is entitled, the department is hereby authorized to disregard as a resource or income the earned income exemptions consistent with federal requirements: *Provided further*, The department may permit the above exemption of earnings of a child to be retained by such child to cover the cost of special future identifiable needs even though the total exceeds the exemptions or resources granted to applicants and recipients of public assistance, but consistent with federal requirements. In formulating rules and regulations pursuant to this chapter the department shall define "earned income" consistent with federal requirements. All resources and income not specifically exempted, and any income or other economic benefit derived from the use of, or appreciation in value of, exempt resources, shall be considered in determining the need of an applicant or recipient of public assistance.

(13) "Need"—The difference between the applicant's or recipient's cost of requirements for himself and the dependent members of his family, as measured by the standards of the department, and value of all nonexempt resources and nonexempt net income received by or available to the applicant or recipient and the dependent members of his family.

(14) In the construction of words and phrases used in this title, the singular number shall include the plural, the masculine gender shall include both the feminine and neuter genders and the present tense shall include the past and future tenses, unless the context thereof shall clearly indicate to the contrary. [1980 c 84 § 1; 1979 c 141 § 294; 1969 ex.s. c 173 § 1; 1965 ex.s. c 2 § 1; 1963 c 228 § 1; 1961 c 235 § 1; 1959 c 26 § 74.04.005. Prior: (i) 1947 c 289 § 1; 1939 c 216 § 1; Rem. Supp. 1947 § 10007-101a. (ii) 1957 c 63 § 1; 1953 c 174 § 17; 1951 c 122 § 1; 1951 c 1 § 3; 1949 c 6 § 3; Rem. Supp. 1949 § 9998-33c.]

74.04.005 Definitions (as amended by 1980 c 174). For the purposes of this title, unless the context indicates otherwise, the following definitions shall apply:

(1) "Public assistance" or "assistance"—Public aid to persons in need thereof for any cause, including services, medical care, assistance grants, disbursing orders, work relief, general assistance and federal-aid assistance.

(2) "Department"—The department of social and health services.

(3) "County office"—The administrative office for one or more counties.

(4) "Director" or "secretary" means the secretary of social and health services.

(5) "Federal-aid assistance"—The specific categories of assistance for which provision is made in any federal law existing or hereafter passed by which payments are made from the federal government to the state in aid or in respect to payment by the state for public assistance rendered to any category of needy persons, including old age assistance, medical assistance, aid to families with dependent children, aid to the permanently and totally disabled persons, aid to the blind, child welfare services, and any other programs of public assistance for which provision for federal funds or aid may from time to time be made.

(6) "General assistance"—Shall include aid to unemployable persons and unemployed employable persons who are not eligible to receive or are not receiving federal-aid assistance: *Provided*, That general assistance shall be granted temporarily to any person eligible for and receiving supplemental security income whose need, as defined in this section, is not met by such supplemental security income grant because of separation from a spouse.

(a) Unemployable persons are those persons who are substantially incapacitated from gainful employment as determined by the secretary

and the commissioner of the employment security department in accordance with rules adopted pursuant to RCW 74.04.001.

(b) Unemployed employable persons are those persons who although capable of gainful employment are unemployed.

(7) "Medical indigents"—Are persons without income or resources sufficient to secure necessary medical services.

(8) "Applicant"—Any person who has made a request, or on behalf of whom a request has been made, to any county office for assistance.

(9) "Recipient"—Any person receiving assistance or currently approved to receive assistance at any future date and in addition those dependents whose needs are included in the recipient's grant.

(10) "Requirement"—Items of goods and services included in the state department of social and health services standards of assistance and required by an applicant or recipient to maintain a defined standard of living.

(11) "Resource"—Any asset, tangible or intangible, owned by or available to the applicant at the time of application, which can be applied toward meeting the applicant's need, either directly or by conversion into money or its equivalent: *Provided*, That an applicant may retain the following described resources and not be ineligible for public assistance because of such resources.

(a) A home, which is defined as real property owned and used by an applicant or recipient as a place of residence, together with a reasonable amount of property surrounding and contiguous thereto, which is used by and useful to the applicant. Whenever a recipient shall cease to use such property for residential purposes, either for himself or his dependents, the property shall be considered as income which can be made available to meet need, and if the recipient or his dependents absent themselves from the home for a period of ninety consecutive days such absence, unless due to hospitalization or health reasons, shall raise a presumption of abandonment: *Provided*, That if in the opinion of three physicians the recipient will be unable to return to the home during his lifetime, and the home is not occupied by a spouse or dependent children or disabled sons or daughters, such property shall be considered as income which can be made available to meet need.

(b) Household furnishings and personal clothing used and useful to the person.

(c) Automobile(s) used and useful.

(d) Cash of not to exceed two hundred dollars for a single person or four hundred dollars for a family unit of two, or marketable securities of such value. This maximum shall be increased by twenty-five dollars for each additional member of the family unit.

(e) Life insurance having a cash surrender value.

(f) Other personal property and belongings which are used and useful or which have great sentimental value to the applicant or recipient.

Whenever such person ceases to make use of any of the property specified in items (b), (c) and (f) of this section, the same shall be considered as income available to meet need: *Provided*, That the department may by rule and regulation exempt such personal property and belongings which can be used by the applicant or recipient to decrease his need for public assistance or aid in rehabilitating him or his dependents.

(g) The department shall by rule and regulation fix the ceiling value for the individual or family unit for all property and belongings as defined in items (c), (d) and (e) of this section. In establishing such ceiling, the department shall establish a sliding scale based upon the family size. If an applicant for or recipient of public assistance possesses property and belongings in excess of the ceiling value, such value shall be used in determining the need of the applicant or recipient: *Provided*, That in the determination of need of applicants for or recipients of general assistance no resources or income shall be considered as exempt per se, but the department may by rule and regulation adopt standards which will permit the exemption of the home and personal property and belongings from consideration as an available resource or income when such resources or income are determined to be necessary to the applicant's or recipient's restoration to independence.

(12) "Income"—All appreciable gains in real or personal property (cash or kind) or other assets, which are received by or become available for use and enjoyment by an applicant or recipient after applying for or receiving public assistance: *Provided*, That all necessary expenses that may reasonably be attributed to the earning of income shall be considered in determining net income: *Provided further*, That the department may by rule and regulation exempt income received by an applicant for or recipient of public assistance which can be used by

him to decrease his need for public assistance or to aid in rehabilitating him or his dependents, but such exemption shall not, unless otherwise provided in this title, exceed the exemptions of resources granted under this chapter to an applicant for public assistance: *Provided further*, That in determining the amount of assistance to which a recipient of aid to the blind is entitled or to which any dependent of such recipient may be entitled under any category of public assistance, the department is hereby authorized to disregard as a resource or income the first eighty-five dollars per month of any earned income plus one-half of earned income in excess of eighty-five dollars per month and for a period of not in excess of thirty-six months such additional amounts of other income and resources, in the case of an individual who has a plan for achieving self-support approved by the department, as may be necessary for the fulfillment of such plan of such blind recipient who is otherwise eligible for an aid to the blind grant: *Provided further*, That in determining the amount of assistance to which a recipient of aid to families with dependent children is entitled, the department is hereby authorized to disregard as a resource or income (a) with respect to a child who is not a full time employee and who is a full time or part time student attending a school, college, or university, or a course of vocational or technical training designed to fit him for gainful employment, all of the earned income of such child; and (b) with respect to any other dependent child, adult, or other person in the home whose needs are taken into account in making such determination, the first thirty dollars of the total of their earned income for such month and one-third of the remainder: *Provided further*, The department may permit the above exemption of earnings of a child to be retained by such child to cover the cost of special future identifiable needs even though the total exceeds the exemptions or resources granted to applicants of public assistance, but consistent with federal requirements: *Provided further*, That in determining the amount of assistance to which a recipient of old age assistance is entitled, the department is hereby authorized to disregard as a resource or income the first twenty dollars per month of any earned income plus one-half of additional earnings up to eighty dollars of such recipient who is otherwise eligible for an old age assistance grant; but the total amount of earnings or other income if accumulated shall not, when added to the amount of cash or marketable securities exempted under (d) of subsection (11) of this section, exceed the total amounts exempted under that subsection for a family unit: *Provided further*, That a recipient of aid to the blind may accumulate without penalty from such exempt income, an amount not to exceed the maximum value of personal property as established by the department pursuant to this section less other cash, marketable securities, cash surrender value of insurance and/or car held by such recipient. In formulating rules and regulations pursuant to this chapter the department shall define "earned income" in such a manner as to meet with the approval of the department of health, education and welfare: *And provided further*, That all resources and income not specifically exempted, and any income or other economic benefit derived from the use of, or appreciation in value of, exempt resources, shall be considered in determining the need of an applicant or recipient of public assistance.

(13) "Need"—The difference between the applicant's or recipient's cost of requirements for himself and the dependent members of his family, as measured by the standards of the department, and value of all nonexempt resources and nonexempt net income received by or available to the applicant or recipient and the dependent members of his family.

(14) In the construction of words and phrases used in this title, the singular number shall include the plural, the masculine gender shall include both the feminine and neuter genders and the present tense shall include the past and future tenses, unless the context thereof shall clearly indicate to the contrary. [1980 c 174 § 1; 1969 ex.s. c 173 § 1; 1965 ex.s. c 2 § 1; 1963 c 228 § 1; 1961 c 235 § 1; 1959 c 26 § 74.04.005. Prior: (i) 1947 c 289 § 1; 1939 c 216 § 1; Rem. Supp. 1947 § 10007-101a. (ii) 1957 c 63 § 1; 1953 c 174 § 17; 1951 c 122 § 1; 1951 c 1 § 3; 1949 c 6 § 3; Rem. Supp. 1949 § 9998-33c.]

Reviser's note: RCW 74.04.005 was amended twice during the 1980 regular session, each without reference to the other. The second amendment, 1980 c 174 § 1, was made without reference to the 1979 c 141 § 294 amendment.

For rule of construction concerning sections amended more than once in the same legislative session, see RCW 1.12.025.

74.04.300 Recovery of payments improperly received—Lien. If a recipient receives public assistance for which he is not eligible, or receives public assistance in an amount greater than that for which he is eligible, the portion of the payment to which he is not entitled shall be a debt due the state: *Provided*, That if any part of any assistance payment is obtained by a person as a result of a wilfully false statement, or representation, or impersonation, or other fraudulent device, or wilful failure to reveal resources or income, one hundred twenty-five percent of the amount of assistance to which he was not entitled shall be a debt due the state and shall become a lien against the real and personal property of such person from the time of filing by the department with the county auditor of the county in which the person resides or owns property, and such lien claim shall have preference to the claims of all unsecured creditors. It shall be the duty of recipients of public assistance to notify the department within twenty days of the receipt or possession of all income or resources not previously declared to the department, and any failure to so report shall be prima facie evidence of fraud: *Provided further*, That there shall be no liability placed upon recipients for receipt of overpayments of public assistance which result from error on the part of the department and no fault on the part of the recipient in obtaining or retaining the assistance if the recovery thereof would be inequitable as determined by the secretary or his designee or when the department determines that the cost of collection exceeds the amount recoverable from a nonfraudulent overpayment.

Debts due the state pursuant to the provisions of this section, may be recovered by the state by deduction from the subsequent assistance payments to such persons or may be recovered by a civil action instituted by the attorney general. [1980 c 84 § 2; 1979 c 141 § 306; 1973 1st ex.s. c 49 § 1; 1969 ex.s. c 173 § 18; 1959 c 26 § 74.04.300. Prior: 1957 c 63 § 3; 1953 c 174 § 35; 1939 c 216 § 27; RRS § 10007-127a.]

Chapter 74.08

ELIGIBILITY GENERALLY—STANDARDS OF ASSISTANCE—OLD AGE ASSISTANCE

| Sections | |
|-----------|--|
| 74.08.025 | Eligibility for public assistance, generally. |
| 74.08.335 | Transfers of property to qualify for assistance. |
| 74.08.530 | Homemaker—home health, chore, and personal and household services—Legislative finding, intent. |
| 74.08.550 | Homemaker—home health, chore, and personal and household services—Department to develop program. |
| 74.08.570 | Chore services for disabled persons—Eligibility. |

74.08.025 Eligibility for public assistance, generally. Public assistance shall be awarded to any applicant:

- (1) Who is in need; and
- (2) Who has not made a voluntary assignment of property or cash for the purpose of qualifying for an assistance grant; and
- (3) Who is not an inmate of a public institution except as a patient in a medical institution or except as an

inmate in a public institution who could qualify for federal aid assistance: *Provided*, That the assistance paid by the department to recipients in nursing homes, or receiving nursing home care, may cover the cost of clothing and incidentals and general maintenance exclusive of medical care and health services. The department may pay a grant to cover the cost of clothing and personal incidentals in public or private medical institutions and institutions for tuberculosis. The department shall allow recipients in nursing homes to retain, in addition to the grant to cover the cost of clothing and incidentals, wages received for work as a part of a training or rehabilitative program designed to prepare the recipient for less restrictive placement to the extent permitted under Title XIX of the federal social security act. [1980 c 79 § 1; 1971 ex.s. c 169 § 1; 1967 ex.s. c 31 § 1; 1959 c 26 § 74.08.025. Prior: 1953 c 174 § 19.]

Aid to dependent children: RCW 74.12.030.

Aid to the blind: RCW 74.16.030.

Disability assistance: RCW 74.10.020.

74.08.335 Transfers of property to qualify for assistance. Aid to families with dependent children and general assistance shall not be granted to any person who has made an assignment or transfer of property for the purpose of rendering himself eligible for the assistance. There is a rebuttable presumption that a person who has transferred or transfers any real or personal property or any interest in property within two years of the date of application for the assistance without receiving adequate monetary consideration therefor, did so for the purpose of rendering himself eligible for the assistance. Any person who transfers property for the purpose of rendering himself eligible for assistance, or any person who after becoming a recipient transfers any property or any interest in property without the consent of the secretary, shall be ineligible for assistance for a period of time during which the reasonable value of the property so transferred would have been adequate to meet the person's needs under normal conditions of living: *Provided*, That the secretary is hereby authorized to allow exceptions in cases where undue hardship would result from a denial of assistance. [1980 c 79 § 2; 1979 c 141 § 330; 1959 c 26 § 74.08.335. Prior: 1953 c 174 § 33.]

74.08.530 Homemaker-home health, chore, and personal and household services—Legislative finding, intent. The legislature finds that it is desirable to provide a coordinated and comprehensive program of in-home services for certain citizens in order that such persons may remain in their own homes, obtain employment if possible, and maintain a closer contact with the community. Such a program will seek to prevent mental and psychological deterioration which our citizens might otherwise experience. The legislature intends that the services will be provided in a fashion which promotes independent living. [1980 c 137 § 1; 1973 1st ex.s. c 51 § 1.]

74.08.550 Homemaker-home health, chore, and personal and household services—Department to develop program. (1) The department of social and health services is authorized to develop a program to provide for those services enumerated in RCW 74.08.540.

(2) The department shall endeavor to assure that, for each individual receiving in-home services, a single caseworker is responsible for coordinating the delivery of all necessary in-home services for which the recipient is eligible.

(3) The department may provide assistance in the recruiting of providers of the services enumerated in RCW 74.08.540 and seek to assure the timely provision of services in emergency situations.

(4) The department shall assure that all providers of the services enumerated in RCW 74.08.540 are compensated for the delivery of the services on a prompt and regular basis. [1980 c 137 § 2; 1973 1st ex.s. c 51 § 3.]

74.08.570 Chore services for disabled persons—Eligibility. (1) An otherwise eligible disabled person shall not be deemed ineligible for chore services under this chapter if the person's gross income from employment, adjusted downward by the cost of the chore service to be provided and the disabled person's work expenses, does not exceed the maximum eligibility standard established by the department for such chore services. The department shall establish a sliding scale fee schedule for such disabled persons, taking into consideration the person's ability to pay and work expenses.

(2) If a disabled person arranges for chore services through an individual provider arrangement, the recipient's contribution shall be counted as first dollar toward the total amount owed to the provider for chore services rendered.

(3) As used in this section:

(a) "Gross income" means total earned wages, commissions, salary, and any bonus;

(b) "Work expenses" includes:

(i) Payroll deductions required by law or as a condition of employment, in amounts actually withheld;

(ii) The necessary cost of transportation to and from the place of employment by the most economical means, except rental cars; and

(iii) Expenses of employment necessary for continued employment, such as tools, materials, union dues, transportation to service customers if not furnished by the employer, and uniforms and clothing needed on the job and not suitable for wear away from the job;

(c) "Employment" means any work activity for which a recipient receives monetary compensation;

(d) "Disabled" means:

(i) Permanently and totally disabled as defined by the department and as such definition is approved by the federal security agency for federal matching funds;

(ii) Eighteen years of age or older;

(iii) A resident of the state of Washington; and

(iv) Willing to submit to such examinations as are deemed necessary by the department to establish the extent and nature of the disability. [1980 c 137 § 3.]

Chapter 74.09
MEDICAL CARE

Sections

| | |
|-----------|---|
| 74.09.120 | Purchases of services, care, supplies—Inspection. (Effective July 1, 1982.) |
| 74.09.160 | Presentment of charges by contractors. |
| 74.09.550 | Repealed. (Effective July 1, 1982.) |
| 74.09.560 | Repealed. (Effective July 1, 1982.) |
| 74.09.570 | Repealed. (Effective July 1, 1982.) |
| 74.09.580 | Repealed. (Effective July 1, 1982.) |
| 74.09.590 | Repealed. (Effective July 1, 1982.) |

74.09.120 Purchases of services, care, supplies—Inspection. (Effective July 1, 1982.) (1) The department shall purchase necessary physician and dentist services by contract or "fee for service".

(2) The department shall purchase hospital care by contract or by all inclusive day rate, or at a reasonable cost based on a ratio of charges to cost. Any hospital when requested by the department shall supply such information as necessary to justify its rate, charges or costs. All additional services provided by the hospital shall be purchased at rates established by the department after consultation with the hospital.

(3) The department shall purchase nursing home care by contract.

(4) All other services and supplies provided under the program shall be secured by contract. [1980 c 177 § 84; 1975 1st ex.s. c 213 § 1; 1967 ex.s. c 30 § 1; 1959 c 26 § 74.09.120. Prior: 1955 c 273 § 13.]

Effective dates—1980 c 177: See RCW 74.46.901.
Purchasing by state departments: RCW 43.19.200.

74.09.160 Presentment of charges by contractors. Each vendor or group who has a contract and is rendering service to eligible persons as defined in this chapter shall submit such charges as agreed upon between the department and the individual or group on a monthly basis and shall present their final charges not more than one hundred twenty days after the termination of service. If the final charges are not presented within the one hundred twenty-day period they shall not be a charge against the state unless previous extension in writing has been given by the department. Said one hundred twenty-day period may also be extended by regulation, but only if required by applicable federal law or regulation, and to no more than the extension of time so required. [1980 c 32 § 11; 1979 ex.s. c 81 § 1; 1973 1st ex.s. c 48 § 1; 1959 c 26 § 74.09.160. Prior: 1955 c 273 § 17.]

74.09.550 Repealed. (Effective July 1, 1982.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

74.09.560 Repealed. (Effective July 1, 1982.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

74.09.570 Repealed. (Effective July 1, 1982.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

74.09.580 Repealed. (Effective July 1, 1982.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

74.09.590 Repealed. (Effective July 1, 1982.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 74.15

AGENCIES—CHILDREN, EXPECTANT MOTHERS, DEVELOPMENTALLY DISABLED—CARE, PLACEMENT

Sections

| | |
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| 74.15.030 | Powers and duties of secretary. |
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74.15.030 Powers and duties of secretary. The secretary 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. In investigating the character of an agency and the persons employed by or under contract to an agency, the secretary may have access to conviction records or pending charges of the agencies and its staff. The secretary shall use the information solely for the purpose of determining eligibility for a license and shall safeguard the information in the same manner as the child abuse registry established in RCW 26.44.070. Criminal justice agencies shall provide the secretary such information as they may have and that the secretary may require for such purpose;

(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 and RCW 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 and RCW 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 and RCW 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 and RCW 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. [1980 c 125 § 1; 1979 c 141 § 355; 1977 ex.s. c 80 § 72; 1967 c 172 § 3.]

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

Chapter 74.16

AID TO BLIND PERSONS—WASHINGTON STATE COMMISSION FOR THE BLIND

Sections

74.16.190 Repealed.

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

Chapter 74.26

SERVICES FOR CHILDREN WITH MULTIPLE HANDICAPS

Sections

74.26.010 Legislative intent.
74.26.020 Eligibility criteria.
74.26.030 Program plan for services—Local agency support.
74.26.040 Administrative responsibility—Regulations.
74.26.050 Contracts for services—Supervision.
74.26.060 Program costs—Liability of insurers.

74.26.010 Legislative intent. In recognition of the fact that there is a small population of children with

multiple disabilities and specific and continuing medical needs now being served in high-daily-cost hospitals that could be more appropriately and cost-efficiently served in alternative residential alternatives, it is the intent of the legislature to establish a controlled program to develop and review an alternative service delivery system for certain multiply handicapped children who have continuing intensive medical needs but who are not required to continue in residence in a hospital setting. [1980 c 106 § 1.]

74.26.020 Eligibility criteria. (1) To be eligible for services under this alternative program, a person must meet all the following criteria:

(a) The individual must be under twenty-two years of age;

(b) The individual must be under the care of a physician and such physician must diagnose the child's condition as sufficiently serious to warrant eligibility;

(c) The individual must be presently residing in, or in immediate jeopardy of residing in, a hospital or other residential medical facility for the purpose of receiving intensive support medical services; and

(d) The individual must fall within one of the four functional/medical definitional categories listed in subsection (2) of this section.

(2) Functional/medical definitional categories:

(a) Respiratory impaired; with an acquired or congenital defect of the oropharynx, trachea, bronchial tree, or lung requiring continuing dependency on a respiratory assistive device in order to allow the disease process to heal or the individual to grow to a sufficient size to live as a normal person;

(b) Respiratory with multiple physical impairments; with acquired or congenital defects of the central nervous system or multiple organ systems requiring continued dependency on a respiratory assistive device and/or other medical, surgical, and physical therapy treatments in order to allow the disease process to heal or the individual to gain sufficient size to permit surgical correction of the defect or the individual to grow large and strong enough and acquire sufficient skills in self-care to allow survival in a nonmedical/therapy intensive environment;

(c) Multiply physically impaired; with congenital or acquired defects of multiple systems and at least some central nervous system impairment that causes loss of urine and stool sphincter control as well as paralysis or loss or reduction of two or more extremities, forcing the individual to be dependent on a wheelchair or other total body mobility device, also requiring medical, surgical, and physical therapy intervention in order to allow the individual to grow to a size that permits surgical correction of the defects or allows the individual to grow large and strong enough and acquire sufficient skills in self-care to allow survival in a nonmedical/therapy intensive environment;

(d) Static encephalopathies; with severe brain insults of acquired or congenital origin causing the individual to be medically diagnosed as totally dependent for all bodily and social functions except cardiorespiratory so that

the individual requires continuous long-term daily medical/nursing care. [1980 c 106 § 2.]

74.26.030 Program plan for services—Local agency support. (1) A written individual program plan shall be developed for each child served under this controlled program by the division of developmental disabilities in cooperation with the child's parents or if available, legal guardians, and under the supervision of the child's primary health care provider.

(2) The plan shall provide for the systematic provision of all required services. The services to be available as required by the child's individual needs shall include: (a) Nursing care, including registered and licensed practical nurses, and properly trained nurse's aides; (b) physicians, including surgeons, general and family practitioners, and specialists in the child's particular diagnosis on either a referral, consultive, or on-going treatment basis; (c) respiratory therapists and devices; (d) dental care of both routine and emergent nature; (e) on-going nutritional consultation from a trained professional; (f) communication disorder therapy; (g) physical and occupational habilitation and rehabilitation therapy and devices; (h) special and regular education; (i) recreation therapy; (j) psychological counseling; and (k) transportation.

(3) A portion of these required services can be provided from state and local agencies having primary responsibility for such services, but the ultimate responsibility for ensuring and coordinating the delivery of all necessary services shall rest with the division of developmental disabilities. [1980 c 106 § 3.]

74.26.040 Administrative responsibility—Regulations. The department of social and health services, division of developmental disabilities, shall bear all administrative responsibility for the effective and rapid implementation of this controlled program. The division shall promulgate regulations within sixty days after June 12, 1980, to provide minimum standards and qualifications for the following program elements:

- (1) Residential services;
- (2) Medical services;
- (3) Day program;
- (4) Facility requirements and accessibility for all buildings in which the program is to be conducted;
- (5) Staff qualifications;
- (6) Staff training;
- (7) Program evaluation; and
- (8) Protection of client's rights, confidentiality, and informed consent. [1980 c 106 § 4.]

74.26.050 Contracts for services—Supervision. The division of developmental disabilities shall implement this controlled program through a "request-for-proposal" method and subsequent contracts for services with any local, county, or state agency demonstrating a probable ability to meet the program's goals. The proposals must demonstrate an ability to provide or insure the provision of all services set forth in RCW 74.26.030 if necessary for the children covered by the proposals.

The division of developmental disabilities shall thoroughly supervise, review, and audit fiscal and program performance for the individuals served under this control program. A comparison of all costs incurred by all public agencies for each individual prior to the implementation of this program and all costs incurred after one year under this program shall be made and reported back to the legislature in the 1982 session. [1980 c 106 § 5.]

74.26.060 Program costs—Liability of insurers. This program or any components necessary to the child shall be available to eligible children at no cost to their parents provided that any medical insurance benefits available to the child for his/her medical condition shall remain liable for payment for his/her cost of care. [1980 c 106 § 6.]

Chapter 74.38

SENIOR CITIZENS SERVICES ACT

Sections

74.38.070 Reduced utility rates for low income senior citizens.

74.38.070 Reduced utility rates for low income senior citizens. (1) Notwithstanding any other provision of law, any county, city, town, municipal corporation, or quasi municipal corporation providing utility services may provide such services at reduced rates for low income senior citizens: *Provided*, That, for the purposes of this section, "low income senior citizen" shall be defined by appropriate ordinance or resolution adopted by the governing body of the county, city, town, municipal corporation, or quasi municipal corporation providing the utility services except as provided in subsection (2) of this section. Any reduction in rates granted in whatever manner to low income senior citizens in one part of a service area shall be uniformly extended to low income senior citizens in all other parts of the service area.

(2) For purposes of implementing this section by any public utility district, "low income senior citizen" means a person who is sixty-two years of age or older and whose total income, including that of his or her spouse or cotenant, does not exceed the amount specified in RCW 84.36.381(5)(b), as now or hereafter amended. [1980 c 160 § 1; 1979 c 116 § 1.]

Chapter 74.42

NURSING HOMES—RESIDENT CARE, OPERATING STANDARDS

(*Suspended)

Sections

74.42.020 Minimum standards. (Effective January 1, 1981.)
74.42.150 Plan of care—Goals—Program—Responsibilities—Review. (Effective January 1, 1981.)
74.42.200 Supervision of health care by physician—When required. (Effective January 1, 1981.)
74.42.220 Contracts for professional services from outside the agency. (Effective January 1, 1981.)
74.42.225 Self-medication programs for residents—Educational program—Implementation. (Effective January 1, 1981.)

- 74.42.310 Staff duties at meals. (Effective January 1, 1981.)
 74.42.340 Administrative support—Purchasing—Inventory control. (Effective January 1, 1981.)
 74.42.430 Written policy guidelines. (Effective January 1, 1981.)
 74.42.490 Room requirements—Waiver. (Effective January 1, 1981.)
 74.42.570 Health and safety requirements. (Effective January 1, 1981.)
 74.42.580 Penalties for violation of standards. (Effective January 1, 1981.)
 74.42.590 Department to review each resident's plan of care. (Effective January 1, 1981.)
 74.42.600 Department inspections—Notice of noncompliance—Penalties. (Effective January 1, 1981.)
 74.42.610 Department to assess resident's needs.
 74.42.630 Conflict with federal requirements. (Effective January 1, 1981.)
 74.42.920 Chapter 74.42 RCW suspended—Effective date delayed until January 1, 1981.

***Reviser's note:** Chapter 74.42 RCW was suspended and its effective date delayed until January 1, 1981. See RCW 74.42.920. Also, see RCW 74.42.610, amended separately, and notes on the effective date of that section.

74.42.020 Minimum standards. (Effective January 1, 1981.) The standards in RCW 74.42.030 through 74.42.570 are the minimum standards for facilities receiving reimbursement under chapter 177 (Senate Bill No. 3250), Laws of 1980, or *if not enacted, facilities receiving reimbursement under chapter 74.09 RCW: *Provided, however,* That RCW 74.42.040, 74.42.140 through 74.42.280, 74.42.300, 74.42.360, 74.42.370, 74.42.380, 74.42.420(2), (4), (5), (6) and (7), 74.42.430(3), 74.42.450(2) and (3), 74.42.520, 74.42.530, 74.42.540, 74.42.570, and 74.42.580 shall not apply to Christian Science sanatoria facilities operated and listed or certified by The First Church of Christ, Scientist, in Boston, Massachusetts. [1980 c 184 § 6; 1979 ex.s. c 211 § 2.]

***Reviser's note:** Senate Bill No. 3250 was enacted in the 1980 legislative session and became 1980 c 177. For disposition of sections in that act, see note following RCW 74.46.410.

Effective date—Chapter 74.42 RCW: See RCW 74.42.920.

74.42.150 Plan of care—Goals—Program—Responsibilities—Review. (Effective January 1, 1981.) (1) Under the attending physician's instructions, qualified facility staff will establish and maintain a comprehensive plan of care for each resident which shall be kept on file by the facility and be evaluated through review and assessment by the department. The comprehensive plan contains:

- (a) Goals for each resident to accomplish;
- (b) An integrated program of treatment, therapies and activities to help each resident achieve those goals; and
- (c) The persons responsible for carrying out the programs in the plan.

(2) Qualified facility staff shall review the comprehensive plan of care at least quarterly. [1980 c 184 § 7; 1979 ex.s. c 211 § 15.]

Effective date—Chapter 74.42 RCW: See RCW 74.42.920.

74.42.200 Supervision of health care by physician—When required. (Effective January 1, 1981.) The health care of each resident shall be under the continuing supervision of a physician: *Provided,* That a resident of a facility licensed pursuant to chapter 18.51 RCW but not certified by the federal government under Title XVIII or Title XIX of the Social Security Act as now or hereafter amended shall not be required to receive the continuing supervision of a health care practitioner licensed pursuant to chapter 18.22, 18.25, 18.32, 18.57, 18.71, and 18.83 RCW, nor shall the state of Washington require such continuing supervision as a condition of licensing. The physician shall see the resident whenever necessary, and as required and/or consistent with state and federal regulations. [1980 c 184 § 8; 1979 ex.s. c 211 § 20.]

Effective date—Chapter 74.42 RCW: See RCW 74.42.920.

74.42.220 Contracts for professional services from outside the agency. (Effective January 1, 1981.) (1) If the facility does not employ a qualified professional to furnish required services, the facility shall have a written contract with a qualified professional or agency outside the facility to furnish the required services. The terms of the contract, including terms about responsibilities, functions, and objectives, shall be specified. The contract shall be signed by the administrator, or the administrator's representative, and the qualified professional.

(2) All contracts for these services shall require the standards in RCW 74.42.010 through 74.42.570 to be met. [1980 c 184 § 9; 1979 ex.s. c 211 § 22.]

Effective date—Chapter 74.42 RCW: See RCW 74.42.920.

74.42.225 Self-medication programs for residents—Educational program—Implementation. (Effective January 1, 1981.) The department shall develop an educational program for attending and staff physicians and patients on self-medication. The department shall actively encourage the implementation of such self-medication programs for residents. [1980 c 184 § 18.]

Effective date—Chapter 74.42 RCW: See RCW 74.42.920.

74.42.310 Staff duties at meals. (Effective January 1, 1981.) (1) A facility shall have sufficient personnel to supervise the residents, direct self-help dining skills, and to insure that each resident receives enough food.

(2) A facility shall provide table service for all residents, including residents in wheelchairs, who are capable and willing to eat at tables. [1980 c 184 § 10; 1979 ex.s. c 211 § 31.]

Effective date—Chapter 74.42 RCW: See RCW 74.42.920.

74.42.340 Administrative support—Purchasing—Inventory control. (Effective January 1, 1981.) (1) The facility shall provide adequate administrative support to efficiently meet the needs of residents and facilitate attainment of the facility's goals and objectives.

(2) The facility shall:

- (a) Document the purchasing process;

(b) Adequately operate the inventory control system and stockroom;

(c) Have appropriate storage facilities for all supplies and surplus equipment; and

(d) Train and assist personnel to do purchase, supply, and property control functions. [1980 c 184 § 11; 1979 ex.s. c 211 § 34.]

Effective date—Chapter 74.42 RCW: See RCW 74.42.920.

74.42.430 Written policy guidelines. (Effective January 1, 1981.) The facility shall develop written guidelines governing:

- (1) All services provided by the facility;
- (2) Admission, transfer or discharge;
- (3) The use of chemical and physical restraints, the personnel authorized to administer restraints in an emergency, and procedures for monitoring and controlling the use of the restraints;
- (4) Procedures for receiving and responding to residents' complaints and recommendations;
- (5) Access to, duplication of, and dissemination of information from the resident's record;
- (6) Residents' rights, privileges, and duties;
- (7) Procedures if the resident is adjudicated incompetent or incapable of understanding his or her rights and responsibilities;
- (8) When to recommend initiation of guardianship proceedings under chapter 11.88 RCW; and
- (9) Emergencies;
- (10) Procedures for isolation of residents with infectious diseases;
- (11) Procedures for residents to refuse treatment and for the facility to document informed refusal.

The written guidelines shall be made available to the staff, residents, members of residents' families, and the public. [1980 c 184 § 12; 1979 ex.s. c 211 § 43.]

Effective date—Chapter 74.42 RCW: See RCW 74.42.920.

74.42.490 Room requirements—Waiver. (Effective January 1, 1981.) Each resident's room shall:

- (1) Be equipped with or conveniently located near toilet and bathing facilities;
- (2) Be at or above grade level;
- (3) Contain a suitable bed for each resident and other appropriate furniture;
- (4) Have closet space that provides security and privacy for clothing and personal belongings;
- (5) Contain no more than four beds;
- (6) Have adequate space for each resident; and
- (7) Be equipped with a device for calling the staff member on duty.

The department may waive the space, occupancy, and certain equipment requirements of this section for an existing building constructed prior to January 1, 1980, or space and certain equipment for new intermediate care facilities for the mentally retarded for as long as the department considers appropriate if the department finds that the requirements would result in unreasonable hardship on the facility, the waiver serves the particular needs of the residents, and the waiver does not adversely

affect the health and safety of the residents. [1980 c 184 § 13; 1979 ex.s. c 211 § 49.]

Effective date—Chapter 74.42 RCW: See RCW 74.42.920.

74.42.570 Health and safety requirements. (Effective January 1, 1981.) The facility shall meet state and local laws, rules, regulations, and codes pertaining to health and safety. [1980 c 184 § 14; 1979 ex.s. c 211 § 57.]

Effective date—Chapter 74.42 RCW: See RCW 74.42.920.

74.42.580 Penalties for violation of standards. (Effective January 1, 1981.) The department may deny, suspend, or revoke a license or provisional license or, in lieu thereof or in addition thereto, assess monetary penalties of a civil nature pursuant to the provisions of chapter 34.04 RCW not to exceed one thousand dollars for such violations when the department finds that the licensee, or any partner, officer, director, owner of five percent or more of the assets of the facility, or managing employee:

(1) Failed or refused to comply with the requirements of RCW 74.42.010 through 74.42.570 or the standards and rules established by the department under RCW 74.42.010 through 74.42.570;

(2) Was the holder of a license issued under chapter 18.51 RCW, 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;

(3) Has knowingly or with reason to know made a false statement of a material fact in any records required under RCW 74.42.010 through 74.42.570;

(4) Refused to allow representatives or agents of the department to inspect all books, records, and files required to be maintained under RCW 74.42.010 through 74.42.570 or any portion of the premises of the facility;

(5) Wilfully prevented, interfered with, or attempted to impede in any way the work of any authorized representative of the department and the lawful enforcement of any provision of RCW 74.42.010 through 74.42.570; or

(6) Wilfully prevented or interfered with any representative of the department in the preservation of evidence of any violation of any of the provisions of RCW 74.42.010 through 74.42.570 or the standards and rules adopted pursuant to RCW 74.42.010 through 74.42.570.

The department shall adopt rules to implement and administer this section not later than January 15, 1981. [1980 c 184 § 15; 1979 ex.s. c 211 § 58.]

Effective date—Chapter 74.42 RCW: See RCW 74.42.920.

74.42.590 Department to review each resident's plan of care. (Effective January 1, 1981.) (1) The department shall evaluate through review and assessment, within thirty days after each resident's admission to the facility, each resident's comprehensive plan of care.

(2) The department shall review the comprehensive plan of care for each resident at least annually or upon any change in the resident's classification pursuant to RCW 74.42.610, as now or hereafter amended.

(3) The facility shall submit any request to modify a resident's classification to the department for the department's approval. The approval shall not be given until the department has reviewed the resident. [1980 c 184 § 16; 1979 ex.s. c 211 § 59.]

Effective date—Chapter 74.42 RCW: See RCW 74.42.920.

74.42.600 Department inspections—Notice of non-compliance—Penalties. (Effective January 1, 1981.) (1) In addition to the inspection required by chapter 18.51 RCW, the department shall inspect the facility for compliance with the standards in RCW 74.42.010 through 74.42.570.

(2) If the facility has not complied with any of the standards in RCW 74.42.010 through 74.42.570, the department shall notify the facility in writing that the facility is in noncompliance and describe the reasons for the facility's noncompliance. The notice shall inform the facility that, except for life-threatening situations or situations which substantially limit the provider's capacity to render adequate care which may be for a shorter period of time, the facility shall comply within a specified time, not to exceed sixty days from the date the plan of correction is approved by the department. The penalties in RCW 74.42.580 may be imposed if, upon inspection after the specified period, the department determines that the facility has not complied. [1980 c 184 § 17; 1979 ex.s. c 211 § 60.]

Effective date—Chapter 74.42 RCW: See RCW 74.42.920.

74.42.610 Department to assess resident's needs. The department shall assess the needs of each resident within thirty days after the resident's admission. The department shall use the patient assessment system developed pursuant to RCW 18.51.310, as now or hereafter amended. Based upon the assessment of the resident's needs, the department shall assign each resident to a classification, developed by the patient care classification and standards task force pursuant to *section 86 of this 1980 act, reflecting the level of care required by that resident.

This section shall apply to developmentally disabled residents as a separate system. [1980 c 177 § 85; 1979 ex.s. c 211 § 61.]

***Reviser's note:** The referenced "section 86 of this 1980 act" is quoted herewith: "(1) There is established a special task force to be known as the "patient care classification and standards task force," hereafter referred to in this section as "the task force." The task force shall terminate on December 31, 1980.

(2) The task force shall be composed of the following members:

(a) Two representatives of the nursing home industry appointed jointly by the president of the senate and the speaker of the house of representatives with such appointment made not later than twenty days following **the effective date of this section. The persons appointed shall represent the following:

(i) One representative from the nursing home facility associations; and

(ii) One representative from nonprofit facilities;

(b) Two representatives from the department of social and health services appointed by the secretary and whose appointment shall be made not later than twenty days following **the effective date of this section;

(c) Two representatives from nursing home consumer groups appointed jointly by the representatives appointed pursuant to subparagraphs (2)(a) and (b) of this section. The consumer group representatives shall be chosen within twenty days following **the effective date of this section;

(d) Two representatives appointed by the governor and whose appointment shall be made not later than twenty days following **the effective date of this section; and

(e) Four representatives from the legislature, two from the house and two from the senate, appointed by the speaker of the house of representatives and the president of the senate, respectively. The persons appointed shall represent the following standing committees:

(i) One from the house appropriations committee;

(ii) One from the house social and health services committee;

(iii) One from the senate ways and means committee; and

(iv) One from the senate social and health services committee.

(3) Not later than the thirtieth day following **the effective date of this section, the task force members shall meet and:

(a) Elect a chairman of the task force from among the members, with such chairman presiding at all meetings and having administrative responsibility for the task force;

(b) Elect a vice-chairman of the task force from among the members, with such vice-chairman acting in the stead of the chairman upon the chairman's absence; and

(c) Adopt such procedural rules as necessary to carry out the responsibilities set forth in subsection (6) of this section.

(4) The task force shall provide progress reports to the appropriate legislative committees in each of the months of June and August 1980 and as otherwise requested.

(5) The office of financial management shall provide the support services and staff required by the task force.

(6) Not later than September 1, 1980, the task force shall present a report to the governor. The task force report shall also be presented by this same date to the legislature for its review and approval during the 1981 legislative session. Such report shall set forth the following:

(a) A patient classification system which reflects, as nearly as possible, the level of care required by each resident;

(b) Standard hours for each classification, with such standard hours to be expressed as either a range of hours or as a single standard hour per classification, except that such standard hours shall be the expressed composite of hours required for a nursing assistant, licensed practical nurse, and registered nurse;

(c) A draft of recommended legislation necessary for implementation of the task force recommendations pursuant to this section; and

(d) A fiscal note detailing the six-year fiscal impact of the task force recommendations pursuant to this section.

(7) The recommended legislation of the task force shall be subject to the approval of the legislature by March 1, 1981.

(8) The secretary shall adopt no later than March 31, 1981, the rules and regulations necessary to carry out the legislation approved in subsection (7) of this section." [1980 c 177 § 86.]

**For the effective date of this section, see RCW 74.46.901.

Report to legislature—1980 c 177: "The department shall submit to the appropriate legislative committees not later than January 15, 1981, a report detailing the department's activities with regard to pre-placement screening for medical care recipients, and the department's nursing home admissions policy. Such report shall include, but not be limited to, program descriptions, client flow analyses, programmatic impacts, and cost effectiveness analyses." [1980 c 177 § 87.]

Effective dates—1980 c 177: See RCW 74.46.901.

Effective date—Chapter 74.42 RCW: See RCW 74.42.920.

74.42.630 Conflict with federal requirements. (Effective January 1, 1981.) If any part of *this act 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 act 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 act; the rules and regulations under this act shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state. [1980 c 184 § 21.]

*Reviser's note: The sections of "this act" consist of the amendments to RCW 18.51.290, 18.51.310, 74.42.020, 74.42.150, 74.42.200, 74.42.220, 74.42.310, 74.42.340, 74.42.430, 74.42.490, 74.42.570, 74.42.580, 74.42.590, and 74.42.600 and the enactment of RCW 74.42.225 and 74.42.630.

Effective date—Chapter 74.42 RCW: See RCW 74.42.920.

74.42.920 Chapter 74.42 RCW suspended—Effective date delayed until January 1, 1981. Chapter 74.42 RCW shall be suspended immediately, and its effective date delayed so that it shall take effect on January 1, 1981. [1980 c 184 § 19; 1979 ex.s. c 211 § 72.]

Effective date—RCW 74.42.920: "Section 19 of this 1980 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." [1980 c 184 § 22.] Section 19 of this 1980 act consists of the amendments to RCW 74.42.920. Because of this emergency section, 1980 c 184 § 19 became effective April 4, 1980.

Chapter 74.46

NURSING HOME AUDITING AND COST REIMBURSEMENT ACT OF 1980

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 74.46.901 Effective dates—1980 c 177.
 74.46.902 Section captions.

Nursing home administration report to legislature: See note following RCW 74.42.610.

Patient care classification and standards task force: See note following RCW 74.42.610.

74.46.010 Short title. (Effective July 1, 1982.) This chapter may be known and cited as the "Nursing Homes Auditing and Cost Reimbursement Act of 1980." [1980 c 177 § 1.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Accrual method of accounting" means a method of accounting in which revenues are reported in the period when they are earned, regardless of when they are collected, and expenses are reported in the period in which they are incurred, regardless of when they are paid.

(2) "Ancillary care" means those services required by the individual, comprehensive plan of care provided by qualified therapists.

(3) "Appraisal" means the process of establishing the fair market value or reconstructing the historical cost of an asset acquired in a past period as performed by an individual professionally designated either by the American institute of real estate appraisers as a member, appraisal institute (MAI), or by the society of real estate appraisers as a senior real estate analyst (SREA) or a

senior real property appraiser (SRPA). It includes a systematic, analytic determination and the recording and analyzing of property facts, rights, investments, and values based on a personal inspection and inventory of the property.

(4) "Arm's-length transaction" means a transaction resulting from good-faith bargaining between a buyer and seller who are not related organizations and have adverse positions in the market place. Sales or exchanges of nursing home facilities among two or more parties in which all parties subsequently continue to own one or more of the facilities involved in the transactions shall not be considered as arm's-length transactions for purposes of this chapter. Sale of a nursing home facility which is subsequently leased back to the seller within five years of the date of sale shall not be considered as an arm's-length transaction for purposes of this chapter.

(5) "Assets" means economic resources of the contractor, recognized and measured in conformity with generally accepted accounting principles.

(6) "Bad debts" means amounts considered to be uncollectable from accounts and notes receivable.

(7) "Beds" means the number of set-up beds in the facility, not to exceed the number of licensed beds.

(8) "Beneficial owner" means:

(a) Any person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares:

(i) Voting power which includes the power to vote, or to direct the voting of such ownership interest; and/or

(ii) Investment power which includes the power to dispose, or to direct the disposition of such ownership interest;

(b) Any person who, directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement, or any other contract, arrangement, or device with the purpose or effect of divesting himself of beneficial ownership of an ownership interest or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the reporting requirements of this chapter;

(c) Any person who, subject to subparagraph (b) of this subsection, has the right to acquire beneficial ownership of such ownership interest within sixty days, including but not limited to any right to acquire:

(i) Through the exercise of any option, warrant, or right;

(ii) Through the conversion of an ownership interest;

(iii) Pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or

(iv) Pursuant to the automatic termination of a trust, discretionary account, or similar arrangement; except that, any person who acquires an ownership interest or power specified in subparagraphs (i), (ii), or (iii) of this subparagraph (c) with the purpose or effect of changing or influencing the control of the contractor, or in connection with or as a participant in any transaction having such purpose or effect, immediately upon such acquisition shall be deemed to be the beneficial owner of the ownership interest which may be acquired

through the exercise or conversion of such ownership interest or power;

(d) Any person who in the ordinary course of business is a pledgee of ownership interest under a written pledge agreement shall not be deemed to be the beneficial owner of such pledged ownership interest until the pledgee has taken all formal steps necessary which are required to declare a default and determines that the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged ownership interest will be exercised; except that:

(i) The pledgee agreement is bona fide and was not entered into with the purpose nor with the effect of changing or influencing the control of the contractor, nor in connection with any transaction having such purpose or effect, including persons meeting the conditions set forth in subparagraph (b) of this subsection; and

(ii) The pledgee agreement, prior to default, does not grant to the pledgee:

(A) The power to vote or to direct the vote of the pledged ownership interest; or

(B) The power to dispose or direct the disposition of the pledged ownership interest, other than the grant of such power(s) pursuant to a pledge agreement under which credit is extended and in which the pledgee is a broker or dealer.

(9) "Capitalization" means the recording of an expenditure as an asset.

(10) "Contractor" means an entity which contracts with the department to provide services to medical care recipients in a facility and which entity is responsible for operational decisions.

(11) "Department" means the department of social and health services (DSHS) and its employees.

(12) "Depreciation" means the systematic distribution of the cost or other basis of tangible assets, less salvage, over the estimated useful life of the assets.

(13) "Direct care supplies" means medical, pharmaceutical, and other supplies required for the direct nursing and ancillary care of medical care recipients.

(14) "Entity" means an individual, partnership, corporation, or any other association of individuals capable of entering enforceable contracts.

(15) "Equity" means the net book value of all tangible and intangible assets less the recorded value of all liabilities, as recognized and measured in conformity with generally accepted accounting principles.

(16) "Facility" means a nursing home licensed in accordance with chapter 18.51 RCW, or that portion of a hospital licensed in accordance with chapter 70.41 RCW which operates as a nursing home.

(17) "Fair market value" means the replacement cost of an asset less observed physical depreciation on the date for which the market value is being determined.

(18) "Financial statements" means statements prepared and presented in conformity with generally accepted accounting principles including, but not limited to, balance sheet, statement of operations, statement of changes in financial position, and related notes.

(19) "Generally accepted accounting principles" means accounting principles approved by the financial accounting standards board (FASB).

(20) "Generally accepted auditing standards" means auditing standards approved by the American institute of certified public accountants (AICPA).

(21) "Goodwill" means the excess of the price paid for a business over the fair market value of all other identifiable, tangible, and intangible assets acquired.

(22) "Historical cost" means the actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architect's fees, and engineering studies.

(23) "Imprest fund" means a fund which is regularly replenished in exactly the amount expended from it.

(24) "Joint facility costs" means any costs which represent resources which benefit more than one facility, or one facility and any other entity.

(25) "Medical care program" means medical assistance provided under RCW 74.09.500 or authorized state medical care services.

(26) "Medical care recipient" or "recipient" means an individual determined eligible by the department for the services provided in chapter 74.09 RCW.

(27) "Net book value" means the historical cost of an asset less accumulated depreciation.

(28) "Net invested funds" means the net book value of tangible fixed assets employed by a contractor to provide services under the medical care program, including land, buildings, and equipment as recognized and measured in conformity with generally accepted accounting principles, plus an allowance for working capital which shall be five percent of the allowable costs of each contractor for the previous calendar year.

(29) "Operating lease" means a lease under which rental or lease expenses are included in current expenses in accordance with generally accepted accounting principles.

(30) "Owner" means a sole proprietor, general or limited partners, and beneficial interest holders of five percent or more of a corporation's outstanding stock.

(31) "Ownership interest" means all interests beneficially owned by a person, calculated in the aggregate, regardless of the form which such beneficial ownership takes.

(32) "Patient day" or "client day" means a calendar day of care which will include the day of admission and exclude the day of discharge; except that, when admission and discharge occur on the same day, one day of care shall be deemed to exist.

(33) "Qualified therapist" means:

(a) An activities specialist who has specialized education, training, or experience as specified by the department;

(b) An audiologist who is eligible for a certificate of clinical competence in audiology or who has the equivalent education and clinical experience;

(c) A mental health professional as defined by chapter 71.05 RCW;

(d) A mental retardation professional who is either a qualified therapist or a therapist approved by the department who has had specialized training or one year's experience in treating or working with the mentally retarded or developmentally disabled;

(e) A social worker who is a graduate of a school of social work;

(f) A speech pathologist who is eligible for a certificate of clinical competence in speech pathology or who has the equivalent education and clinical experience;

(g) A physical therapist as defined by chapter 18.74 RCW; and

(h) An occupational therapist who is a graduate of a program in occupational therapy, or who has the equivalent of such education or training.

(34) "Questioned costs" means those costs which have been determined in accordance with generally accepted accounting principles but which may constitute disallowed costs or departures from the provisions of this chapter or rules and regulations adopted by the department.

(35) "Records" means those data supporting all financial statements and cost reports including, but not limited to, all general and subsidiary ledgers, books of original entry, and transaction documentation, however such data are maintained.

(36) "Related organization" means an entity which is under common ownership and/or control with, or has control of, or is controlled by, the contractor.

(a) "Common ownership" exists when an entity is the beneficial owner of five percent or more ownership interest in the contractor and any other entity.

(b) "Control" exists where an entity has the power, directly or indirectly, significantly to influence or direct the actions or policies of an organization or institution, whether or not it is legally enforceable and however it is exercisable or exercised.

(37) "Restricted fund" means those funds the principal and/or income of which is limited by agreement with or direction of the donor to a specific purpose.

(38) "Secretary" means the secretary of the department of social and health services.

(39) "Title XIX" or "Medicaid" means the 1965 amendments to the social security act, P.L. 89-07, as amended. [1980 c 177 § 2.]

Effective dates—1980 c 177: See RCW 74.46.901.

PART A REPORTING

74.46.030 Principles of reporting requirements. (Effective July 1, 1981.) The principle inherent within RCW 74.46.040 through 74.46.090 is that the department shall receive complete, annual reporting of costs and financial condition of the contractor prepared and presented in a standardized manner. [1980 c 177 § 3.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.040 Due dates for reports. (Effective July 1, 1981.) (1) Not later than March 31, 1982, and each year

thereafter, each contractor shall submit to the department an annual cost report, and such financial statements as are required by this chapter, for the period from January 1st through December 31st of the preceding year.

(2) Two extensions of not more than thirty days each after March 31st may be granted by the department upon receipt of a written request setting forth the circumstances which prohibit the contractor from compliance with such due date; except, that the secretary shall establish the grounds for extension in rule and regulation. Such request must be received by the department at least ten days prior to the due date.

(3) Not later than one hundred and twenty days following the termination of a contract, the contractor shall submit to the department a cost report, and such financial statements as are required by this chapter, for the period from January 1st through the date the contract terminated. [1980 c 177 § 4.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.050 Improperly completed or late reports. (Effective July 1, 1981.) If either the cost report or the financial statements are not properly completed or if they are not received by the due date, all or part of any payments due under the contract may be withheld by the department until such time as the required cost report and financial statements are properly completed and received. [1980 c 177 § 5.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.060 Completing reports and maintaining records. (Effective July 1, 1981.) (1) Cost reports shall be prepared in a standard manner and form, as determined pursuant to RCW 74.46.070, which shall provide for financial statements, an itemized list of allowable costs, and a preliminary settlement report. Costs reported shall be determined in accordance with generally accepted accounting principles and such additional rules and regulations as are established by the secretary.

(2) All financial statements of a contractor must be prepared in accordance with generally accepted accounting principles, such additional regulatory requirements developed pursuant to RCW 74.46.070, and such additional rules and regulations as are established by the secretary.

(3) The records shall be maintained on the accrual method of accounting and agree with or be reconcilable to the cost report and the financial statements. [1980 c 177 § 6.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.070 Development of accounting and auditing requirements. (1) The office of financial management shall, within seventy-five days after April 4, 1980, engage a consultant through competitive bids who will develop the following:

(a) A uniform chart of accounts;

(b) A standard cost report form, including financial statements which shall be in conformity with generally

accepted accounting principles and such regulatory requirements established by this section as well as any relevant federal regulatory requirements;

(c) Regulatory reporting and accounting provisions which may be required; and

(d) Regulatory auditing provisions which may be required.

(2) Such consultant will develop the items specified in subsection (1) of this section:

(a) In cooperation with an advisory committee to be composed of representatives of the office of financial management, the legislature, the department, the office of the state auditor, the Washington society of certified public accountants, and the providers of nursing home services; and

(b) In a manner which will achieve the principles stated in RCW 74.46.030 and 74.46.100.

(3) Such consultant shall provide ongoing financial consulting assistance to the patient task force created in *section 86 of this act. The patient classification system and standard hours for each classification established by the task force must tie to the uniform chart of accounts, standard cost reports, and financial statements to allow the independent certified public accountant to express an opinion on the statement of expenditures presented in the annual cost report.

(4) Such consultant will complete the development of the items specified in subsection (1) of this section not later than October 1, 1980. The secretary will adopt rules and regulations necessary to implement the consultant's product not later than December 31, 1980, for use in the 1981 reporting year. [1980 c 177 § 7.]

*Reviser's note: For section 86, see note following RCW 74.42.610.

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.080 Requirements for retention of records by the contractor. (Effective July 1, 1981.) (1) All records supporting the required cost reports and financial statements, as well as trust funds established by RCW 74.46.700, shall be retained by the contractor for a period of four years following the filing of such reports at a location in the state of Washington specified by the contractor. The department may direct such records to be retained for a longer period if there remain unresolved questions on the cost reports and financial statements. All such records shall be made available upon demand to authorized representatives of the department, the office of the state auditor, and the United States department of health, education and welfare.

(2) When a contract is terminated, all payments due will be withheld until accessibility and preservation of the records within the state of Washington are assured. [1980 c 177 § 8.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.090 Retention of reports by the department. (Effective July 1, 1981.) The department will retain the required cost reports and financial statements for a period of one year after final settlement, or the period required under the provisions of chapter 40.14 RCW, whichever is greater. [1980 c 177 § 9.]

Effective dates—1980 c 177: See RCW 74.46.901.

PART B AUDIT

74.46.100 Principles of audit requirements. (Effective July 1, 1982.) The principles inherent within RCW 74.46.110 through 74.46.140 are:

(1) To ascertain, through certified audit, that the costs for each year are accurately reported, thereby providing a valid basis for future rate determination;

(2) To ascertain, through certified audits of the cost reports, that cost reports properly reflect the financial statements of the contractor, particularly as they pertain to related organizations and beneficial ownership, thereby providing a valid basis for the determination of return as specified by this chapter;

(3) To ascertain, through the certified audit and the oversight of the office of the state auditor, that compliance with the accounting and auditing provisions of this chapter and the rules and regulations of the department as they pertain to these accounting and auditing provisions is proper and consistent; and

(4) To ascertain, through certified audits, that the responsibility of the contractor has been met in the maintenance of patient trust funds. [1980 c 177 § 10.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.110 Department review. (Effective July 1, 1981.) (1) The department shall analyze the submitted cost report and financial statements of each contractor to determine if the information is correct and complete. If the analysis finds that either the cost report or financial statements are incorrect or incomplete, the department shall take whatever steps are deemed necessary to obtain information from the contractor.

(2) The department shall accumulate data from the properly completed cost reports and financial statements for use in:

(a) Exception profiling; and

(b) Establishing rates.

(3) The department may further utilize such accumulated data for analytical, statistical, or informational purposes as it may deem necessary. [1980 c 177 § 11.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.120 Audits of cost reports and patient trust accounts. (Effective July 1, 1981.) Certified audits of the cost reports and patient trust accounts shall be conducted in accordance with the provisions of this chapter, as follows:

(1) The annual cost report of each contractor and the patient trust accounts under his control will be audited prior to submission to the department by an independent certified public accountant, licensed according to the provisions of chapter 18.04 RCW, who shall be engaged by the office of financial management through competitive bids. The office of financial management shall cause

to be published a request for qualifications from independent certified public accountants. The office of financial management shall then select those independent certified public accountant firms which have qualified to participate in the competitive bid process through a request for proposals: *Provided*, That during fiscal year 1982, for one hundred percent of the contractors, cost reports and patient trust accounts shall be audited: *Provided further*, That during fiscal year 1983, for up to one hundred percent of the contractors, cost reports and patient trust accounts shall be audited. The requirements contained in this subsection shall not be required after June 30, 1983;

(2) Upon request of the secretary; and

(3) Upon termination of a contract. [1980 c 177 § 12.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.130 Preparation for audit by the contractor. (Effective July 1, 1982.) (1) For the requirements of RCW 74.46.120(1), the contractor shall be notified by the accountant at least ten working days in advance of the engagement. Upon such notification, the contractor shall:

(a) Provide access to the facility, all records, and all working papers which are in support of the cost report, financial statements, and patient trust funds; and

(b) Prepare reconciliation of the cost report and financial statements with (i) applicable federal income and federal and state payroll tax returns and (ii) the records for the period covered by the cost report and financial statements.

(2) For the requirements of RCW 74.46.120(2), the contractor shall provide access to the facility and supply all records as required in subsection (1) of this section. [1980 c 177 § 13.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.140 Scope of audits—Procedures. (Effective July 1, 1982.) (1) The annual cost reports of contractors are required to be audited by an independent certified public accountant in accordance with generally accepted auditing standards established for audit of financial statements by the American institute of certified public accountants.

(2) Accompanying the annual cost report and accountant's report thereon shall be:

(a) A schedule of questioned costs, including dollar amounts being questioned and an explanation of the accountant's reason for questioning the allowability of such costs; except that, an amount, not less than five hundred dollars, shall be established by the secretary below which questioned costs need not be listed;

(b) A schedule summarizing the adjustments to the contractor's financial records as a result of the audit, including dollar amounts, the general ledger account or account group, and an explanation of the reason for adjustment; and

(c) A schedule summarizing the adjustments to the contractor's preliminary settlement report as a result of the audit.

(3)(a) The independent auditor shall perform separate audits on the trust funds established by RCW 74.46.700. Such audit shall be prepared in conformity with generally accepted auditing standards and additional rules and regulations established by the department.

(b) Accompanying the audit report on such trust funds shall be any letters of comments or recommendations relating to discrepancies or improvements in accounting procedures.

(4) The independent certified public accountant shall retain all working papers resulting from audits conducted pursuant to this section for a period of five years from the date the report was submitted to the department. The secretary shall have access to such retained working papers upon ten days' written notice to the independent certified public accountant. [1980 c 177 § 14.]

Effective dates—1980 c 177: See RCW 74.46.901.

PART C SETTLEMENT

74.46.150 Settlement process. (Effective July 1, 1982.) (1) The settlement process shall consist of:

(a) The evaluation of the preliminary settlement report by cost center contained within the cost report;

(b) The evaluation of the audit results, including disallowed costs; and

(c) The process of scheduling payment as to such underpayments or overpayments.

(2) In:

(a) Rulings on questioned costs; or

(b) Interpretations resulting in payment of the whole or a portion of a disallowed cost, the department shall prepare and maintain such rulings and interpretations with full justification and explanation for the respective contractor and the appropriate standing committees of the legislature. [1980 c 177 § 15.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.160 Proposed settlement. (Effective July 1, 1982.) (1) Upon receipt of the preliminary settlement report, the department shall verify the accuracy of such report.

(2) Within thirty days after receipt of the audited reports by the secretary, the department will submit a proposed final settlement report by cost center to the contractor which rules on questioned costs, and fully substantiates disallowed costs, refunds, underpayments, and/or adjustments to the preliminary settlement report. [1980 c 177 § 16.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.170 Settlement—Date becomes final—Reopened. (Effective July 1, 1982.) (1) The settlement will become final thirty days after the date the proposed

final settlement report is submitted to the contractor, unless the contractor contests the determination. In the event of such action, the contractor has thirty days after the date the proposed final settlement report has been submitted to notify the department of such contesting pursuant to the provisions of RCW 74.46.780.

(2) A settlement will be reopened if necessary to make adjustments for findings resulting from an audit performed pursuant to this chapter. [1980 c 177 § 17.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.180 Payment of underpayments—Refund of overpayments, erroneous payments. (Effective July 1, 1982.) (1) The state shall make payment of any underpayments within fifteen days of the date the settlement becomes final.

(2) The contractor found to have received either overpayments and/or erroneous payments shall refund such payments to the state within thirty days of the date the settlement becomes final, subject to the provisions of subsections (3), (4), and (5) of this section.

(3) Within the cost centers of nursing services and food, all savings resulting from the respective audited allowable costs being lower than the respective reimbursement rate paid to the contractor during the report period shall be refunded.

(4) Within the cost centers of administration and operations and property, the contractor shall retain at least fifty percent, but not more than seventy-five percent, of any savings resulting from the respective, audited, allowable costs being lower than the respective reimbursement rates paid to the contractor during the report period multiplied by the number of authorized medical care client days in which said rates were in effect. The secretary, by rule and regulation, shall establish the basis for the specific percentages of savings to the contractors. Such rules and regulations may provide for differences in the percentages allowed for each cost center to individual facilities based on performance measures related to administrative efficiency.

(5) All allowances provided by RCW 74.46.530 shall be retained by the contractor.

(6) In the event the contractor fails to make repayment in the time provided in subsection (2) of this section, the department shall either:

(a) Deduct the amount of refund due plus assessment of interest, as determined by the secretary, from payment amounts due the contractor; or

(b) In the instance the contract has been terminated, (i) deduct the amount of refund due plus an assessment of interest, determined by the secretary, from any payments due; or (ii) assess the amount due plus interest, as determined by the secretary, on the amount due.

(7) Where the facility is pursuing judicial or administrative remedies in good faith regarding settlement issues, the department shall not withhold from the facility current payment amounts the department claims to be due from the facility. If the judicial or administrative remedy sought by the facility is not granted after all appeals are exhausted or mutually terminated, the facility

shall make payment of such amounts due plus interest, as payable on judgments, within sixty days of the date such decision is made. [1980 c 177 § 18.]

Effective dates—1980 c 177: See RCW 74.46.901.

PART D ALLOWABLE COSTS

74.46.190 Principles of allowable costs. (Effective July 1, 1982.) (1) The substance of a transaction will prevail over its form.

(2) All documented costs which are ordinary, necessary, related to care of medical care recipients, and not expressly nonallowable, are to be allowable.

(3) Costs applicable to services, facilities, and supplies furnished to the provider by related organizations are allowable but at the cost to the related organization, provided they do not exceed the price of comparable services, facilities, or supplies that could be purchased elsewhere.

(4) The payment for property usage is to be independent of ownership structure and financing arrangements. [1980 c 177 § 19.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.200 Offset of miscellaneous revenues. (Effective July 1, 1982.) (1) Allowable costs shall be reduced by the contractor whenever the item, service, or activity covered by such costs generates revenue or financial benefits other than through the contractor's normal billing for care services; except that, unrestricted grants, gifts, and endowments, and interest therefrom, will not be deducted from the allowable costs of a nonprofit facility.

(2) Where goods or services are sold, the amount of the reduction shall be the actual cost relating to the item, service, or activity. In the absence of adequate documentation of cost, it shall be the full amount of the revenue received. Where financial benefits such as purchase discounts or rebates are received, the amount of the reduction shall be the amount of the discount or rebate. [1980 c 177 § 20.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.210 Costs of meeting standards. (Effective July 1, 1982.) All necessary and ordinary expenses a contractor incurs in providing care services will be allowable costs. These expenses include:

(1) Meeting licensing and certification standards;

(2) Meeting standards of providing regular room, nursing, ancillary, and dietary services, as established by department rule and regulation pursuant to *chapter 211, Laws of 1979 ex. sess.; and

(3) Fulfilling accounting and reporting requirements imposed by this chapter. [1980 c 177 § 21.]

*Reviser's note: Chapter 211, Laws of 1979 ex. sess. consists of chapter 74.42 RCW and RCW 18.51.091 plus amendments to RCW 18.51.070, 18.51.100, 18.51.110, and 18.51.310.

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.220 Payments to related organizations—Limits—Documentation. (Effective July 1, 1982.) (1) Costs applicable to services, facilities, and supplies furnished by a related organization to the contractor shall be allowable only to the extent they do not exceed the lower of the cost to the related organization or the price of comparable services, facilities, or supplies purchased elsewhere.

(2) Documentation of costs to the related organization shall be made available to the auditor at the time and place the records relating to the entity are audited. Payments to or for the benefit of the related organization will be disallowed where the cost to the related organization cannot be documented. [1980 c 177 § 22.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.230 Initial cost of operation. (Effective July 1, 1982.) (1) The necessary and ordinary one-time expenses directly incident to the preparation of a newly constructed or purchased building by a contractor for operation as a licensed facility shall be allowable costs. These expenses shall be limited to start-up and organizational costs incurred prior to the admission of the first patient.

(2) Start-up costs shall include, but not be limited to, administrative and nursing salaries, utility costs, taxes, insurance, repairs and maintenance, and training; except, that they shall exclude expenditures for capital assets. These costs will be allowable in the administration and operations cost center if they are amortized over a period of not less than sixty months beginning with the month in which the first patient is admitted for care.

(3) Organizational costs are those necessary, ordinary, and directly incident to the creation of a corporation or other form of business of the contractor including, but not limited to, legal fees incurred in establishing the corporation or other organization and fees paid to states for incorporation; except, that they do not include costs relating to the issuance and sale of shares of capital stock or other securities. Such organizational costs will be allowable in the administration and operations cost center if they are amortized over a period of not less than sixty months beginning with the month in which the first patient is admitted for care. [1980 c 177 § 23.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.240 Education and training. (Effective July 1, 1982.) (1) Necessary and ordinary expenses of on-the-job training and in-service training required for employee orientation and certification training directly related to the performance of duties assigned will be allowable costs.

(2) Necessary and ordinary expenses of recreational and social activity training conducted by the contractor for volunteers will be allowable costs. [1980 c 177 § 24.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.250 Owner or relative—Compensation. (Effective July 1, 1982.) (1) Total compensation of an

owner or relative of an owner shall be limited to ordinary compensation for necessary services actually performed.

(a) Compensation is ordinary if it is the amount usually paid for comparable services in a comparable facility to an unrelated employee, and does not exceed limits set out in this chapter.

(b) A service is necessary if it is related to patient care and would have had to be performed by another person if the owner or relative had not done it.

(2) The contractor, in maintaining customary time records adequate for audit, shall include such records for owners and relatives who receive compensation. [1980 c 177 § 25.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.260 Compensation for administrative personnel. (Effective July 1, 1982.) (1) Compensation for full-time administrative personnel, as defined in the contract between the contractor and such personnel, shall be an allowable cost, limited as follows:

(a) For calendar year 1981, the compensation of a licensed administrator of a facility having one hundred sixty or more beds shall not exceed thirty-two thousand dollars. The compensation of licensed administrators having beds not exceeding:

(i) Seventy-nine; and

(ii) One hundred fifty-nine;

shall be established by the department on a calendar year basis. The maximum compensation of these three categories of facilities may be adjusted in subsequent calendar years by the department through rule and regulation.

(b) The compensation of a licensed assistant administrator for a facility having eighty or more beds shall not exceed seventy-five percent of the compensation received by the licensed administrator of the facility.

(c) The compensation of a registered administrator-in-training shall not exceed sixty percent of the compensation received by the licensed administrator of the facility.

(2) If the licensed administrator, licensed assistant administrator, or registered administrator-in-training regularly work fewer than forty hours per week, the allowable compensation will be the product of the full-time compensation multiplied by the percentage derived from the division of the actual hours worked by forty hours.

(3) The contractor shall maintain customary time records for the licensed administrator, assistant administrator, and/or administrator-in-training. [1980 c 177 § 26.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.270 Disclosure and approval of cost allocation. (Effective July 1, 1980.) (1) The contractor shall disclose to the department:

(a) The nature and purpose of all costs which represent allocations of joint facility costs; and

(b) The methodology of the allocation utilized.

(2) Such disclosure shall be made not later than September 30, 1980, for the following year and not later than September 30th for each year thereafter; except that a new contractor shall submit the first year's disclosure together with the submissions required by RCW 74.46.670.

(3) The department shall approve such methodology not later than December 31, 1980, and not later than December 31st for each year thereafter. Such approval shall include, but not be limited to, the assurance that:

(a) The services involved are necessary and nonduplicative; and

(b) Costs are allocated in accordance with benefits received from the resources represented by those costs.

(4) An approved methodology may be revised or amended subject to approval as provided in subsection (3) of this section and rules and regulations adopted by the department. [1980 c 177 § 27.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.280 Management fees, agreements. (Effective July 1, 1982.) (1) Management fees will be allowed only if:

(a) A written management agreement both creates a principal/agent relationship between the contractor and the manager, and sets forth the items, services, and activities to be provided by the manager; and

(b) Documentation demonstrates that the services contracted for were actually delivered.

(2) To be allowable, fees must be for necessary, non-duplicative services. Allowable fees for general management services, including the portion of a management fee which is not allocated to specific services such as accounting, are limited to

(a) the maximum allowable compensation under RCW 74.46.260 of the licensed administrator and, if the facility has at least eighty beds, of an assistant administrator, less

(b) actual compensation received by the licensed administrator and by the assistant administrator and administrator-in-training, if any.

In computing maximum allowable compensation under RCW 74.46.260 for a facility with at least eighty beds, include the maximum compensation of an assistant administrator even if an assistant administrator is not employed.

(3) A management fee paid to or for the benefit of a related organization will be allowable to the extent it does not exceed the lower of:

(a) The limits set out in subsection (2) of this section; or

(b) The lower of the actual cost to the related organization of providing necessary services related to patient care under the agreement, or the cost of comparable services purchased elsewhere. Where costs to the related organization represent joint facility costs, the measurement of such costs shall comply with RCW 74.46.270.

(4) A copy of the agreement must be received by the department at least sixty days before it is to become effective. A copy of any amendment to a management agreement must also be received by the department at

least thirty days in advance of the date it is to become effective.

(5) Central office costs for general management services, including the portion of a management expense which is not allocated to specific services, such as accounting, shall be subject to the management fee limits determined in subsections (2) and (3) of this section. [1980 c 177 § 28.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.290 Expense for construction interest. (Effective July 1, 1982.) (1) Interest expense and loan origination fees relating to construction of a facility incurred during the period of construction shall be capitalized and amortized over the life of the facility pursuant to RCW 74.46.360. The period of construction shall extend from the date of the construction loan to the date the facility is put into service for patient care.

(2) For the purposes of this chapter, the period provided for in subsection (1) of this section shall not exceed the project certificate of need time period pursuant to RCW 70.38.125. [1980 c 177 § 29.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.300 Operating leases of office equipment. (Effective July 1, 1982.) Rental or lease costs under arm's-length operating leases of office equipment shall be allowable to the extent the cost is necessary and ordinary. [1980 c 177 § 30.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.310 Capitalization. (Effective July 1, 1982.) The following costs shall be capitalized:

(1) Expenses for facilities or equipment with historical cost in excess of five hundred dollars per unit and a useful life of more than one year from the date of purchase; and

(2) Expenses for equipment with historical cost of five hundred dollars or less per unit if either:

(a) The item was acquired in a group purchase where the total cost exceeded five hundred dollars; or

(b) The item was part of the initial stock of the facility.

(3) Dollar limits in this section may be adjusted for economic trends and conditions by the department as established by rule and regulation. [1980 c 177 § 31.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.320 Depreciation expense. (Effective July 1, 1982.) Depreciation expense on depreciable assets which are required in the regular course of providing patient care will be an allowable cost. It shall be computed using the depreciation base, lives, and methods specified in this chapter. [1980 c 177 § 32.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.330 Depreciable assets. (Effective July 1, 1982.) Tangible assets of the following types in which a contractor has an interest through ownership or leasing are subject to depreciation:

(1) Building – the basic structure or shell and additions thereto;

(2) Building fixed equipment – attachments to buildings, including, but not limited to, wiring, electrical fixtures, plumbing, elevators, heating system, and air conditioning system. The general characteristics of this equipment are:

(a) Affixed to the building and not subject to transfer; and

(b) A fairly long life, but shorter than the life of the building to which affixed;

(3) Major movable equipment including, but not limited to, beds, wheelchairs, desks, and x-ray machines. The general characteristics of this equipment are:

(a) A relatively fixed location in the building;

(b) Capable of being moved as distinguished from building equipment;

(c) A unit cost sufficient to justify ledger control;

(d) Sufficient size and identity to make control feasible by means of identification tags; and

(e) A minimum life greater than one year;

(4) Minor equipment including, but not limited to, waste baskets, bed pans, syringes, catheters, silverware, mops, and buckets which are properly capitalized. No depreciation shall be taken on items which are not properly capitalized as directed in RCW 74.46.310. The general characteristics of minor equipment are:

(a) In general, no fixed location and subject to use by various departments;

(b) Small in size and unit cost;

(c) Subject to inventory control;

(d) Large number in use; and

(e) Generally, a useful life of one to three years;

(5) Land improvements including, but not limited to, paving, tunnels, underpasses, on-site sewer and water lines, parking lots, shrubbery, fences, and walls where replacement is the responsibility of the contractor; and

(6) Leasehold improvements – betterments and additions made by the lessee to the leased property, which become the property of the lessor after the expiration of the lease. [1980 c 177 § 33.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.340 Land, improvements—Depreciation. (Effective July 1, 1982.) Land is not depreciable. The cost of land includes but is not limited to, off-site sewer and water lines, public utility charges necessary to service the land, governmental assessments for street paving and sewers, the cost of permanent roadways and grading of a nondepreciable nature, and the cost of curbs and sidewalks, replacement of which is not the responsibility of the contractor. [1980 c 177 § 34.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.350 Methods of depreciation. (Effective July 1, 1982.) (1) Buildings, land improvements, and fixed equipment shall be depreciated using the straight-line method of depreciation. Major-minor equipment shall be depreciated using either the straight-line method, the sum-of-the-years' digits method, or declining balance

method not to exceed one hundred fifty percent of the straight line rate. Contractors who have elected to take either the sum-of-the-years' digits method or the declining balance method of depreciation on major-minor equipment may change to the straight-line method without permission of the department.

(2) The annual provision for depreciation shall be reduced by the portion allocable to use of the asset for purposes which are neither necessary nor related to patient care.

(3) No further depreciation shall be claimed after an asset has been fully depreciated unless a new depreciation base is established pursuant to RCW 74.46.360. [1980 c 177 § 35.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.360 Depreciation base. (Effective July 1, 1982.) (1) The depreciation base shall be the historical cost of the contractor or lessor, when the assets are leased by the contractor, in acquiring the asset in an arm's-length transaction and preparing it for use, less goodwill, and less accumulated depreciation which has been incurred during periods that the assets have been used in or as a facility by the contractor, such accumulated depreciation to be measured in accordance with subsections (2), (3), and (4) of this section and RCW 74.46.350 and 74.46.370. If the department challenges the historical cost of an asset, or if the contractor cannot or will not provide the historical costs, the department will have the department of general administration, through an appraisal procedure, determine the fair market value of the assets at the time of purchase. The depreciation base of the assets will not exceed such fair market value.

(2) The historical cost of donated assets, or of assets received through testate or intestate distribution, shall be the lesser of:

(a) Fair market value at the date of donation or death; or

(b) The historical cost base of the owner last contracting with the department, if any.

(3) Estimated salvage value of acquired, donated, or inherited assets shall be deducted from historical cost where the straight-line or sum-of-the-years' digits method of depreciation is used.

(4) (a) Where depreciable assets are acquired that were used in the medical care program subsequent to January 1, 1980, the depreciation base of the assets will not exceed the net book value which did exist or would have existed had the assets continued in use under the previous contract with the department; except that depreciation shall not be assumed to accumulate during periods when the assets were not in use in or as a facility.

(b) Subparagraph (4)(a) of this section shall not apply to the most recent arm's-length acquisition if it occurs at least ten years after the ownership of the assets has been previously transferred in an arm's-length transaction nor to the first arm's-length acquisition that occurs after January 1, 1980, for facilities participating in the medical care program prior to January 1, 1980.

The new depreciation base for such acquisitions shall not exceed the fair market value of the assets as determined by the department of general administration through an appraisal procedure. A determination by the department of general administration of fair market value shall be final unless the procedure used to make such determination is shown to be arbitrary and capricious.

(c) Where depreciable assets are acquired from a related organization, the contractor's depreciation base shall not exceed the base the related organization had or would have had under a contract with the department.

(d) Where the depreciable asset is a donation or distribution between related organizations, the base shall be the lesser of (i) fair market value, less salvage value, or (ii) the depreciation base the related organization had or would have had for the asset under a contract with the department. [1980 c 177 § 36.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.370 Lives of assets. (Effective July 1, 1982.)

(1) Except for new buildings, the contractor shall use lives which reflect the estimated actual useful life of the asset and which shall be no shorter than guideline lives as established by the department. The shortest life which may be used for new buildings is thirty years. Lives shall be measured from the date on which the assets were first used in the medical care program or from the date of the most recent arm's-length acquisition of the asset, whichever is more recent. In cases where RCW 74.46.360(4)(a) does apply, the shortest life that may be used for buildings is the remaining useful life under the prior contract. In all cases, lives shall be extended to reflect periods, if any, when assets were not used in or as a facility.

(2) Building improvements shall be depreciated over the remaining useful life of the building, as modified by the improvement.

(3) Improvements to leased property which are the responsibility of the contractor under the terms of the lease shall be depreciated over the useful life of the improvement.

(4) A contractor may change the estimate of an asset's useful life to a longer life for purposes of depreciation. [1980 c 177 § 37.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.380 Disposal of depreciable assets—Inactive status. (Effective July 1, 1982.) (1) Where depreciable assets are disposed of through sale, trade-in, scrapping, exchange, theft, wrecking, or fire or other casualty, depreciation shall no longer be taken on the assets. No further depreciation shall be taken on permanently abandoned assets.

(2) Where an asset has been retired from active use but is being held for stand-by or emergency service, and the department has determined that it is needed and can be effectively used in the future, depreciation may be taken. [1980 c 177 § 38.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.390 Gains and losses upon replacement of depreciable assets. (Effective July 1, 1982.) If the retired asset is replaced, the gain or loss shall be applied against or added to the cost of the replacement asset, provided that a loss will only be so applied if the contractor has made a reasonable effort to recover at least the outstanding book value of the asset. [1980 c 177 § 39.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.400 Temporary contract labor. (Effective July 1, 1982.) Costs for the purchased services of temporary contract labor shall be allowable only to the extent they do not exceed the average of the usual and customary rate for the wages and benefits of the facility's comparable permanent staff, as reimbursed pursuant to RCW 74.46.480 and 74.46.500. [1980 c 177 § 40.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.410 Unallowable costs. (Effective July 1, 1982.)

(1) Costs will be unallowable if they are not documented, necessary, ordinary, and related to the provision of care services to authorized patients.

(2) Unallowable costs include, but are not limited to, the following:

(a) Costs of items or services not covered by the medical care program. Costs of such items or services will be unallowable even if they are indirectly reimbursed by the department as the result of an authorized reduction in patient contribution;

(b) Costs of services and items provided to recipients which are covered by the department's medical care program but not included in care services established by the department under *this act;

(c) Costs associated with a capital expenditure subject to section 1122 approval (part 100, Title 42 C.F.R.) if the department found it was not consistent with applicable standards, criteria, or plans. If the department was not given timely notice of a proposed capital expenditure, all associated costs will be unallowable up to the date they are determined to be reimbursable under applicable federal regulations;

(d) Costs associated with a construction or acquisition project requiring certificate of need approval pursuant to chapter 70.38 RCW if such approval was not obtained;

(e) Interest costs other than those provided by RCW 74.46.290;

(f) Salaries or other compensation of officers, directors, stockholders, and others associated with the contractor or home office, except compensation paid for service related to patient care;

(g) Costs in excess of limits or violating principles set forth in this chapter;

(h) Costs resulting from transactions or the application of accounting methods which circumvent the principles of the cost-related reimbursement system set forth in this chapter;

(i) Costs applicable to services, facilities, and supplies furnished by a related organization in excess of the lower of the cost to the related organization or the price

of comparable services, facilities, or supplies purchased elsewhere;

- (j) Bad debts of non–Title XIX recipients;
- (k) Charity and courtesy allowances;
- (l) Cash, assessments, or other contributions, excluding dues, to charitable organizations, professional organizations, trade associations, or political parties, and costs incurred to improve community or public relations;
- (m) Vending machine expenses;
- (n) Expenses for barber or beautician services not included in routine care;
- (o) Funeral and burial expenses;
- (p) Costs of gift shop operations and inventory;
- (q) Personal items such as cosmetics, smoking materials, newspapers and magazines, and clothing, except those used in patient activity programs;
- (r) Fund–raising expenses, except those directly related to the patient activity program;
- (s) Penalties and fines;
- (t) Expenses related to telephones, televisions, radios, and similar appliances in patients' private accommodations;
- (u) Federal, state, and other income taxes;
- (v) Costs of special care services except where authorized by the department;
- (w) Expenses of key–man insurance and other insurance or retirement plans not made available to all employees;
- (x) Expenses of profit–sharing plans;
- (y) Expenses related to the purchase and/or use of private or commercial airplanes which are in excess of what a prudent contractor would expend for the ordinary and economic provision of such a transportation need related to patient care;
- (z) Personal expenses and allowances of owners or relatives;
 - (aa) All expenses of maintaining professional licenses or membership in professional organizations;
 - (bb) Costs related to agreements not to compete;
 - (cc) Amortization of goodwill;
 - (dd) Expenses related to vehicles which are in excess of what a prudent contractor would expend for the ordinary and economic provision of transportation needs related to patient care;
 - (ee) Legal and consultant fees in connection with a fair hearing against the department where a decision is rendered in favor of the department or where otherwise the determination of the department stands;
 - (ff) Legal and consultant fees of a contractor or contractors in connection with a lawsuit against the department;
 - (gg) Lease acquisition costs and other intangibles not related to patient care;
 - (hh) All rental or lease costs other than those provided in RCW 74.46.300; and
 - (ii) All audit costs incurred pursuant to RCW 74.46.120(1). [1980 c 177 § 41.]

*Reviser's note: The sections in "this act", 1980 c 177, consist of chapter 74.46 RCW, amendments to RCW 74.09.120 and 74.42.610,

temporary sections noted after RCW 74.42.610, an appropriation section, a repealer, and legislative direction sections. See Parallel Tables, this volume.

Effective dates—1980 c 177: See RCW 74.46.901.

PART E RATE–SETTING

74.46.420 Principles of rate–setting. (Effective July 1, 1982.) The following principles are inherent in RCW 74.46.430 through 74.46.590:

(1) Reimbursement rates will be set prospectively on a per patient day basis;

(2) Rates will be established not lower than the level which is reasonably expected to be adequate to reimburse in full the actual, allowable costs of a facility which is economically and efficiently operated and to provide care which meets the needs of a medical care recipient in compliance with applicable standards; and

(3) The rates so established will take into account economic conditions and trends during the period to be covered by such rates. [1980 c 177 § 42.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.430 Prospective reimbursement rates. (Effective July 1, 1982.) (1) The department, as provided by this chapter, will determine prospective cost–related reimbursement rates for services provided to medical care recipients. Each rate so determined shall represent the contractor's maximum compensation within each cost center for each patient day for such medical care recipient.

(2) As required, the department may modify such maximum per patient day rates pursuant to the administrative review provisions of RCW 74.46.780.

(3) The maximum prospective reimbursement rates for the administration and operations and the property cost centers and the return on investment allowance shall be established based upon a minimum facility occupancy level of eighty–five percent. [1980 c 177 § 43.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.440 Limitation of services subject to cost reimbursement. (Effective July 1, 1982.) Only those services which are authorized for a facility pursuant to the medical care program shall be reimbursed under this chapter. [1980 c 177 § 44.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.450 Reimbursement rate for new contractor. (Effective July 1, 1982.) (1) Prospective reimbursement rates for a new contractor will be established within sixty days following receipt by the department of the properly completed projected budget required by RCW 74.46.670. Such reimbursement rates will become effective as of the effective date of the contract.

(2) Such reimbursement rates will be based on the contractor's projected cost of operations through

December 31st of the year the contract becomes effective, and on costs and payment rates of the prior contractor, if any, and/or of other contractors in comparable circumstances.

(3) If a properly completed budget is not received at least sixty days prior to the effective date of the contract, the department will establish preliminary rates based on the other factors specified in subsection (2) of this section. These preliminary rates will remain in effect until a determination is made pursuant to RCW 74.46.460. [1980 c 177 § 45.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.460 Rate determination or adjustment—**When**—**Basis.** (Effective July 1, 1982.) (1) Each contractor's reimbursement rates will be determined prospectively at least once each calendar year, to be effective July 1st.

(2) Rates may be adjusted as determined by the department to take into account variations of more than ten percent in the distribution of patient classifications from the prior reporting year, program changes, economic trends and conditions, and/or administrative review provided by RCW 74.46.780 and shall be adjusted for any capitalized additions or replacements made as a condition for licensure or certification.

(3) Where the contractor participated in the provisions of prospective cost-related reimbursement in effect prior to July 1, 1982, such contractor's prospective rate effective July 1, 1982, will be determined utilizing his reported allowable costs for calendar year 1981.

(4) All prospective reimbursement rates for 1983 and thereafter shall be determined utilizing the prior year's audited cost reports. [1980 c 177 § 46.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.470 Cost centers. (Effective July 1, 1982.) A contractor's reimbursement rates for medical care recipients will be determined utilizing audited cost report data within the following cost centers:

- (1) Nursing services;
- (2) Food;
- (3) Administration and operations; and
- (4) Property. [1980 c 177 § 47.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.480 Nursing services cost center reimbursement rate. (Effective July 1, 1982.) (1) The nursing services cost center shall include all costs related to the direct provision of nursing care and ancillary care including fringe benefits and payroll taxes for the nursing care and ancillary service personnel, and direct care supplies.

(2) For rate-setting purposes, the department shall determine standard hours for each classification established by the department pursuant to *section 86 of this act. Such standard hours shall be the sum of the hours for nursing assistants, licensed practical nurses, and registered nurses.

(3) The standard base rate per classification shall be the sum of the products of at least ninety percent of the

prevailing wages for the categories of nursing assistant, licensed practical nurse, and registered nurse, expressed as an hourly rate, based upon the state-wide salary survey conducted pursuant to RCW 41.06.160, multiplied by the respective components of the standard hours as determined in subsection (2) of this section.

(4) The nursing services cost center rate, excluding the special care rate provided by subsection (5) of this section, for each facility, shall be:

(a) The sum of the standard base rate per classification determined in subsection (3) of this section multiplied by the total patient days for the facility within each classification for the prior year, divided by the total patient days for the prior year for the facility, less special care patient days,

(b) Plus a factor to be determined annually by the department for the facility for fringe benefits, payroll taxes, ancillary care and direct care supplies; except that, the factor shall reflect the level of employee benefits, provided or agreed to, payroll taxes assessed, and/or ancillary services provided within each facility.

(5) Where the standard hours for rate setting purposes in subsection (2) of this section do not reflect the exceptional custodial or nursing care required for a patient, the department, upon verification of such exceptional custodial or nursing care, will negotiate a special rate for exceptional care for such patient. Such special rate will:

(a) Include the factors described in subparagraph (2)(b) of this section; and

(b) Be reimbursed to the facility independently of the nursing services cost center rate provided by subsection (4) of this section. [1980 c 177 § 48.]

***Reviser's note:** For section 86, see note following RCW 74.42.610.

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.490 Food cost center reimbursement rate. (Effective July 1, 1982.) (1) The food cost center shall include all costs for bulk and raw food and beverages purchased for the dietary needs of medical care recipients.

(2) The food cost reimbursement rate for each facility shall be computed as follows:

$FR = (TFC/TPD) 1.15$, where

FR = the facility food cost center reimbursement rate;
TFC = the total of all reporting facilities' food cost center costs; and

TPD = the total patient days for the prior year of all reporting facilities.

(3) Unless extended by law for an additional period of time, on and after July 1, 1984, the food cost reimbursement rate for each facility shall be computed as follows:

$FR = (TFC/TPD)$, where

FR = the facility food cost center reimbursement rate;
TFC = the total of all reporting facilities' food cost center costs; and

TPD = the total patient days for the prior year of all reporting facilities. [1980 c 177 § 49.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.500 Administration and operations cost center reimbursement rate. (Effective July 1, 1982.) (1) The administration and operations cost center shall include all items not included in the cost centers of nursing services, food, and property.

(2) The administration and operations cost center reimbursement rate for each facility shall be based on the computation in this subsection and shall not exceed the eighty-fifth percentile of (a) the rates of all reporting facilities derived from the computation below, or (b) reporting facilities grouped in accordance with subsection (3) of this section:

AR = TAC/TPD, where

AR = the administration and operations cost center reimbursement rate for a facility;

TAC = the total costs of the administration and operations cost center plus the retained savings from such cost center as provided in RCW 74.46.180 of a facility; and

TPD = the total patient days for a facility for the prior year.

(3) The secretary may group facilities based on factors which could reasonably influence cost requirements of this cost center, other than ownership or legal organization characteristics. [1980 c 177 § 50.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.510 Property cost center. (Effective July 1, 1982.) The property cost center rate for each facility shall be determined by dividing the sum of the reported allowable prior period actual depreciation costs, subject to RCW 74.46.310 through 74.46.380, adjusted for any capitalized additions or replacements approved by the department, and the retained savings from such cost center, as provided in RCW 74.46.180, by the total patient days for the facility in the prior period. If a capitalized addition or retirement of an asset will result in a different licensed bed capacity during the ensuing period, the prior period total patient days used in computing the property cost center rate shall be adjusted to anticipated patient day level.

When a certificate of need for a new facility is requested, the department, in reaching its decision, shall take into consideration per-bed land and building construction costs for the facility which shall not exceed a maximum to be established by the secretary. [1980 c 177 § 51.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.520 Adjustment of cost center rates. (Effective July 1, 1982.) The rates determined in RCW 74.46.480 through 74.46.510 shall be adjusted by the department utilizing appropriate indices or other measures of economic trends and conditions projected for the ensuing year. [1980 c 177 § 52.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.530 Return on investment allowance—Review. (Effective July 1, 1982.) (1) The department shall first establish a total state-wide return on investment

pool for use in determining individual facility return on investment allowances.

(a) In establishing the total state-wide return on investment pool the department shall determine the sum of net invested funds as of the end of the most recent reporting period of all facilities participating in the medical care program.

(b) In computing the portion of net invested funds representing the net book value of tangible fixed assets, the same assets, depreciation bases, lives, and methods referred to in RCW 74.46.330, 74.46.350, 74.46.360, and 74.46.370, including owned and leased assets, shall be utilized, except that the capitalized cost of land upon which the facility is located and such other contiguous land which is reasonable and necessary for use in the regular course of providing patient care shall also be included. In the case of leased facilities where the net invested funds are unknown or the contractor is unable to provide necessary information to determine net invested funds, the secretary shall have the authority to determine an amount for net invested funds based on an appraisal conducted according to RCW 74.46.360(1).

(c) The sum of net invested funds shall then be multiplied by 1.4 times the average of the rates of interest on special issues of public debt obligations issued to the federal hospital insurance trust fund for the last completed calendar quarter prior to rate-setting to establish the total state-wide return on investment pool.

(2) The department shall establish for individual facilities return on investment allowances composed of two parts: A financing allowance and a variable return allowance.

(a) The financing allowance shall be determined by multiplying the net invested funds of each facility by 1.07 times the average of the rates of interest on special issues of public debt obligations issued to the federal hospital insurance trust fund for the last completed quarter prior to rate-setting, and dividing by the contractor's total patient days. If a capitalized addition or retirement of an asset will result in a different licensed bed capacity during the ensuing period, the prior period total patient days used in computing the financing and variable return allowances shall be adjusted to the anticipated patient day level.

(b) In determining the variable return allowance:

(i) The department will first rank all facilities in numerical order from highest to lowest according to their average per diem allowable costs for the sum of the administration and operations and property cost centers for the previous reimbursement period.

(ii) The department shall then compute the variable return allowance by multiplying the appropriate percentage amounts, which shall not be less than one percent and not greater than five percent, by the total prospective rate for each facility, as determined in RCW 74.46.450 through 74.46.510. The percentage amounts will be based on groupings of facilities according to the rankings as established in subparagraph (2)(b)(i) of this section. Those groups of facilities with lower per diem costs shall receive higher percentage amounts than those with higher per diem costs.

(iii) Such percentage amounts shall be calculated so that the variable return allowance plus the financing allowance times the total patient days for each facility, when summed for all facilities, shall be as close in amount to the total state-wide return on investment pool as is practical; except that, such percentage amounts for equivalent groups of facilities as determined in subparagraph (2)(b)(ii) of this section shall be no less than the percentage amounts as calculated pursuant to this subsection on July 1, 1982.

(c) The sum of the financing allowance and the variable return allowance shall be the return on investment for each facility, and shall be added to the prospective rates of each contractor as determined in RCW 74.46.450 through 74.46.510.

(d) In the case of a facility which was leased by the contractor as of January 1, 1980, in an arm's-length agreement, which continues to be leased under the same lease agreement, and for which the annualized lease payment, plus any interest and depreciation expenses associated with contractor-owned assets, for the period covered by the prospective rates, divided by the contractor's total patient days, minus the property cost center determined according to RCW 74.46.510, is more than the return on investment allowance determined according to RCW 74.46.530(2)(c), the following shall apply:

(i) The financing allowance shall be recomputed substituting the fair market value of the assets as of January 1, 1980, as determined by the department of general administration through an appraisal procedure, for the net book value of the assets in determining net invested funds for the facility. A determination by the department of general administration of fair market value shall be final unless the procedure used to make such determination is shown to be arbitrary and capricious.

(ii) The sum of the financing allowance computed under subparagraph (2)(d)(i) of this section and the variable allowance shall be compared to the annualized lease payment, plus any interest and depreciation expenses associated with contractor-owned assets, for the period covered by the prospective rates, divided by the contractor's total patient days, minus the property cost center rate determined according to RCW 74.46.510. The lesser of the two amounts shall be called the alternate return on investment allowance.

(iii) The return on investment allowance determined according to RCW 74.46.530(2)(c) or the alternate return on investment allowance, whichever is greater, shall be the return on investment allowance for the facility and shall be added to the prospective rates of the contractor as determined in RCW 74.46.450 through 74.46.510.

(3) In the event that the department of health, education and welfare disallows the application of the return on investment allowances to nonprofit facilities, the department shall modify the measurements of net invested funds used for computing both total state-wide return on investment pool and individual facility return on investment allowances as follows: Net invested funds for each nonprofit facility shall be multiplied by one minus

the ratio of equity funds to the net invested funds of all nonprofit facilities.

(4) Each biennium, beginning in 1983, the secretary shall review the adequacy of return on investment allowances in relation to anticipated requirements for maintaining, reducing, or expanding nursing care capacity. The secretary shall report the results of such review to the legislature and make recommendations for adjustments in the return on investment rates utilized in this section, if appropriate. [1980 c 177 § 53.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.540 Effect of legislative revision. (Effective July 1, 1982.) If the legislature changes the methodology of property reimbursement established in *this 1980 act, no affected contractor shall be entitled thereafter to receive such benefits as a matter of contractual right. [1980 c 177 § 54.]

***Reviser's note:** For translation of "this 1980 act," see note for "this act" following RCW 74.46.410.

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.550 Upper limits to reimbursement rates. (Effective July 1, 1982.) (1) The reimbursement rates shall not exceed the contractor's customary charges to the general public for comparable services.

(2) Rates shall not exceed the limits set forth in 42 CFR 450.30(b)(6). [1980 c 177 § 55.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.560 Notification of rates. (Effective July 1, 1982.) The department will notify each contractor in writing of its prospective reimbursement rates at least thirty days in advance of the effective date. Unless otherwise specified at the time it is issued, the rate will be effective from the first day of the month in which it is issued until a new rate becomes effective. If a rate is changed as the result of an appeal in accordance with RCW 74.46.780, it will be effective as of the date the appealed rate became effective. [1980 c 177 § 56.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.570 Adjustments required due to errors or omissions. (Effective July 1, 1982.) (1) Prospective rates are subject to adjustment by the department as a result of errors or omissions by the department or by the contractor. The department will notify the contractor in writing of each adjustment and of its effective date, and of any amount due to the department or to the contractor as a result of the rate adjustment.

(2) The contractor shall pay an amount it owes the department resulting from an error or omission, or commence repayment in accordance with a schedule determined by the department, within sixty days after receipt of notification of the rate adjustment, unless the contractor contests the department's determination in accordance with the procedures set forth in RCW 74.46.780. If the determination is contested, the contractor shall pay or commence repayment within sixty days after completion of these proceedings. If a refund is

not paid when due, the amount thereof may be deducted from current payments by the department.

(3) The department shall pay any amount it owes the contractor as a result of a rate adjustment within thirty days after it notifies the contractor of the rate adjustment.

(4) No adjustments will be made to a rate after final settlement, except as provided in RCW 74.46.170(2). [1980 c 177 § 57.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.580 Public review of rate-setting. (Effective July 1, 1982.) The department shall provide all interested members of the public with an opportunity to review and comment on the proposed rate-setting factors, indices, measures, and guidelines not later than May 15th of each year prior to their being used to set rates. [1980 c 177 § 58.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.590 Public disclosure of rate-setting methodology. (Effective July 1, 1982.) In accordance with the provisions of RCW 74.46.820, the department will make available to the public full information regarding its factors, indices, measures, and guidelines. [1980 c 177 § 59.]

Effective dates—1980 c 177: See RCW 74.46.901.

PART F BILLING/PAYMENT

74.46.600 Billing period. (Effective July 1, 1982.) A contractor shall bill the department for care provided to medical care recipients from the first through the last day of each calendar month. [1980 c 177 § 60.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.610 Billing procedure. (Effective July 1, 1982.) (1) A contractor shall bill the department each month by completing and returning a facility billing statement as provided by the department which shall include, but not be limited to:

- (a) Billing by cost center;
- (b) Total patient days; and
- (c) Patient days for medical care recipients.

The statement shall be completed and filed in accordance with rules and regulations established by the secretary.

(2) A contractor shall not bill the department for service provided to a recipient until an award letter of eligibility of such recipient pursuant to rules and regulations established according to the provisions of chapter 74.09 RCW has been received by the contractor except that, a contractor may bill and shall be reimbursed for all medical care recipients referred to the contractor's facility by the department prior to the receipt of the award letter of eligibility or the denial of such eligibility. At that time it may bill for service provided back through the date the recipient was admitted or became eligible.

(3) Billing shall cover the patient days of care. [1980 c 177 § 61.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.620 Payment. (Effective July 1, 1982.) (1) The department will reimburse a contractor for service rendered under the facility contract and billed in accordance with RCW 74.46.610.

(2) The amount paid will be computed using the appropriate rates assigned to the contractor.

(3) For each recipient, the department will pay an amount equal to the appropriate rates, multiplied by the number of patient days each rate was in effect, less the amount the recipient is required to pay for his or her care as set forth by RCW 74.46.630. [1980 c 177 § 62.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.630 Charges to patients. (Effective July 1, 1982.) (1) The department will notify a contractor of the amount each medical care recipient is required to pay for care provided under the contract and the effective date of such required contribution. It is the contractor's responsibility to collect that portion of the cost of care from the patient, and to account for any authorized reduction from his or her contribution in accordance with rules and regulations established by the secretary.

(2) If a contractor receives documentation showing a change in the income or resources of a recipient which will mean a change in his or her contribution toward the cost of care, this shall be reported in writing to the department within seventy-two hours and in a manner specified by rules and regulations established by the secretary. If necessary, appropriate corrections will be made in the next facility statement, and a copy of documentation supporting the change will be attached. If increased funds for a recipient are received by a contractor, an amount determined by the department shall be allowed for clothing and personal and incidental expense, and the balance applied to the cost of care.

(3) The contractor shall accept the reimbursement rates established by the department as full compensation for all services provided under the contract, certification as specified by Title XIX, and licensure under chapter 18.51 RCW. The contractor shall not seek or accept additional compensation from or on behalf of a recipient for any or all such services. [1980 c 177 § 63.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.640 Suspension of payments. (Effective July 1, 1982.) (1) Payments to a contractor may be withheld by the department in each of the following circumstances:

(a) A required report is not properly completed and filed by the contractor within the appropriate time period, including any approved extension. Payments will be released as soon as a properly completed report is received;

(b) State auditors or authorized personnel in the course of their duties are refused access to a nursing

home or are not provided with existing appropriate records. Payments will be released as soon as such access or records are provided;

(c) A refund in connection with an annual settlement or rate adjustment is not paid by the contractor when due. The amount withheld will be limited to the unpaid amount of the refund; and

(d) Payment for the final thirty days of service under a contract will be held pending final settlement when the contract is terminated.

(2) No payment will be withheld until written notification of the suspension is provided to the contractor, stating the reason therefor. [1980 c 177 § 64.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.650 Termination of payments. (Effective July 1, 1982.) All payments to a contractor will end no later than sixty days after any of the following occurs:

(1) A contract expires, is terminated or is not renewed;

(2) A facility license is revoked; or

(3) A facility is decertified as a Title XIX facility; except that, in situations where the secretary determines that residents must remain in such facility for a longer period because of the resident's health or safety, payments for such residents shall continue. [1980 c 177 § 65.]

Effective dates—1980 c 177: See RCW 74.46.901.

PART G ADMINISTRATION

74.46.660 Conditions of participation. (Effective July 1, 1982.) In order to participate in the prospective cost-related reimbursement system established by this chapter, the person or legal organization responsible for operation of a facility shall:

(1) Obtain a state certificate of need and/or federal capital expenditure review (section 1122) approval pursuant to chapter 70.38 RCW and Part 100, Title 42 CFR where required;

(2) Hold the appropriate current license;

(3) Hold current Title XIX certification;

(4) Hold a current contract to provide services under this chapter; and

(5) Comply with all provisions of the contract and all application regulations, including but not limited to the provisions of this chapter. [1980 c 177 § 66.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.670 Projected budget for new contractors. (Effective July 1, 1982.) (1) Each new contractor shall submit a projected budget to the department at least sixty days before its contract will become effective.

(2) The projected budget shall cover the period to December 31st from the date the contractor will enter the program. It shall be prepared on forms and in accordance with rules and regulations established by the secretary. [1980 c 177 § 67.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.680 Change of ownership. (Effective July 1, 1982.) (1) On the effective date of a change of ownership the department's contract with the old owner shall be terminated. The old owner shall give the department thirty days' written notice of such termination. When certificate of need and/or section 1122 approval is required pursuant to chapter 70.38 RCW and Part 100, Title 42 CFR, for the new owner to acquire the facility, and the new owner wishes to continue to provide service to recipients without interruption, certificate of need and/or section 1122 approval shall be obtained before the old owner submits a notice of termination.

(2) If the new owner desires to participate in the cost-related reimbursement system, it shall meet the conditions specified in RCW 74.46.660 and shall submit a projected budget in accordance with RCW 74.46.670 no later than sixty days before the date of the change of ownership. The facility contract with the new owner shall be effective as of the date of the change of ownership. [1980 c 177 § 68.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.690 Termination of contract—Settlement. (Effective July 1, 1982.) (1) When a facility contract is terminated for any reason, the old contractor shall submit final reports as required by RCW 74.46.040. Payment for care provided during the final thirty days of service under a contract will be held until the contractor has filed a properly completed final audited cost report, and final settlement has been determined, such settlement not to exceed sixty days following submittal of the final audited cost report.

(2) Following final settlement, a payment withheld pursuant to subsection (1) of this section will be sent to the contractor after any overpayment determined in connection with final settlement has been deducted. If the contractor contests the settlement determination in accordance with RCW 74.46.170, the department will hold the amount in dispute pending completion of the appeal process, but will release the balance of such payment to the contractor.

(3) The department will release a payment which would be withheld pursuant to subsection (1) of this section, provided a bond issued by a bonding company acceptable to the department is filed by the contractor. The bond shall:

(a) Be in an amount equal to the released payment;

(b) Be for a term sufficient to ensure effectiveness after final settlement and the exhaustion of administrative and judicial remedies;

(c) Provide that the full amount of the bond shall be paid to the department if a properly completed final audited cost report is not filed in accordance with this chapter, or if financial records supporting this record are not preserved and made available to the auditor; and

(d) Provide that an amount equal to any recovery the department determines is due from the contractor at settlement, but not exceeding the amount of the bond, shall be paid to the department in the event the contractor does not pay the refund within sixty days following

receipt of written demand or the conclusion of administrative or judicial proceedings to contest settlement issues.

(4) If a contract is terminated solely in order for the same owner to contract with the department to deliver services to another classification of medical care recipients at the same facility, the contractor is not required to submit final cost reports, and payment for the final thirty days will not be withheld. [1980 c 177 § 69.]

Effective dates—1980 c 177: See RCW 74.46.901.

PART H PATIENT TRUST FUNDS

74.46.700 Trust fund establishment, reports. (Effective July 1, 1982.) (1) Each contractor shall establish and maintain, as a service to the medical care recipient, a bookkeeping system incorporated into the business records for all recipient moneys entrusted to the contractor and received by the facility for the recipient.

(2) Such system will apply to a recipient who is:

(a) Incapable of handling his or her own money and the department or the recipient's guardian, relative, or physician makes written request of the facility to accept this responsibility; or

(b) Capable of handling his or her own money, but requests the facility in writing to accept this responsibility.

(3) The written requests provided in subsection (2) of this section shall be maintained by the contractor in the recipient's file.

(4) The recipient must be given at least a quarterly reporting of all financial transactions in his or her trust account. The representative payee, the guardian, and/or other designated agents of the recipient must be sent a copy of said reporting on the same basis as the recipient. [1980 c 177 § 70.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.710 Trust fund accounts—Charges for medical services. (Effective July 1, 1982.) (1) The contractor shall maintain a subsidiary ledger with an account for each recipient for whom the contractor has money in trust.

(2) Each account and related supporting records shall:

(a) Be kept current;

(b) Be balanced each month; and

(c) Show in detail, with supporting verification, all moneys received on behalf of the recipient and the disposition of all moneys so received.

(3) Records of each account shall be available for audit pursuant to RCW 74.46.140 and shall be retained for a minimum of four years. When an account has attained the maximum limit established by rules and regulations promulgated by the secretary, the contractor will notify the department within five days.

(4) Any charge for medical services otherwise properly made to a recipient's trust account must be supported by a written denial of such services from the department. [1980 c 177 § 71.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.720 Petty cash fund. (Effective July 1, 1982.)

(1) The contractor may maintain a petty cash fund originating from trust moneys of an amount determined by the department which shall be reasonable and necessary for the size of a facility and the needs of the recipients.

(2) Such petty cash fund shall be maintained as an imprest fund. All moneys over and above the trust fund petty cash amount shall be deposited intact, within twenty-four hours, in a trust fund checking account, separate and apart from any other bank account or accounts of the facility or other facilities.

(3) Cash deposits of recipient allowances from any source must be made intact to the trust account within one week from the time that payment of such allowances are received.

(4) Any related bankbooks, bank statements, checkbook, check register, and all voided and canceled checks, shall be made available for audit pursuant to RCW 74.46.140 and shall be retained by the facility for not less than four years.

(5) No service charges for such checking account shall be paid from recipient trust moneys.

(6) The trust account per bank shall be reconciled monthly to the trust account per patient ledgers. [1980 c 177 § 72.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.730 Trust moneys control, disbursement. (Effective July 1, 1982.) (1) Trust moneys shall be held in trust and are not to be turned over to anyone other than the recipient or the recipient's guardian without the written consent of the recipient, his designated agent as appointed by power of attorney, or an appropriate employee of the department designated by the secretary. Such trust moneys shall not be subject to attachment, execution, or other creditor remedies.

(2) When moneys are received, a receipt shall be filled out in duplicate; one copy shall be given to the person making payment of deposit, and the second copy shall be retained by the facility.

(3) Checks received by recipients shall be endorsed by the recipient. If the recipient is incapable of signing his or her name, the contractor shall secure the recipient's mark "X" followed by the printed name of the recipient and the signature of two witnesses.

(4) The recipient's trust account ledger sheet must be credited with any allowance received; referenced with the receipt number and supported by a copy of the deposit slip. [1980 c 177 § 73.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.740 Trust moneys availability. (Effective July 1, 1982.) Moneys held in trust for any recipient shall be available for his or her personal and incidental needs when requested by the recipient or one of the persons designated in RCW 74.46.730(1). [1980 c 177 § 74.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.750 Procedure for refunding trust money. (Effective July 1, 1982.) When a recipient is discharged and/or transferred, the balance of the recipient's trust account shall be returned either directly to the person within five days, or by mail. In either instance a receipt shall be obtained. [1980 c 177 § 75.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.760 Liquidation of trust fund. (Effective July 1, 1982.) (1) When a recipient has died, the contractor shall obtain a receipt from the next of kin, guardian, or duly qualified agent when releasing the balance of money held in trust. If there is no identified next of kin, guardian, or duly qualified agent, the department shall be contacted in writing within seven days for assistance in the release of the money held in trust.

(2) A check or other document showing payment to such next of kin, guardian, or duly qualified agent will serve as a receipt.

(3) Where the recipient leaves the facility without authorization and his or her whereabouts are not known:

(a) The facility will make a reasonable attempt to locate the missing recipient using the agencies of state or local government;

(b) If the recipient cannot be located after ninety days, the facility shall notify the department of revenue of the existence of abandoned property, pursuant to chapter 63.28 RCW. The facility will be required to deliver to the department of revenue the balance of the recipient's trust fund account within twenty days following such notification. [1980 c 177 § 76.]

Effective dates—1980 c 177: See RCW 74.46.901.

PART I MISCELLANEOUS

74.46.770 Contractor challenges—Laws, department decisions, etc. (Effective July 1, 1982.) [(1)] If a contractor wishes to contest the way in which a rule or contract provision relating to the prospective cost-related reimbursement system was applied to the contractor by the department, it shall first pursue the administrative review process set forth in RCW 74.46.780.

(2) The administrative review process in RCW 74.46.780 need not be exhausted if a contractor wishes to challenge the legal validity of a statute, rule, or contract provision. [1980 c 177 § 77.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.780 Administrative review process. (Effective July 1, 1982.) (1) Within thirty days after a contractor is notified of an action or determination it wishes to challenge, the contractor shall request in writing that the secretary review such determination. The request shall be signed by the contractor or the licensed administrator of the facility, shall identify the challenged determination and the date thereof, and shall state as specifically as practicable the grounds for its contention that the determination was erroneous. Copies of any documentation

on which the contractor intends to rely to support its position shall be included with the request.

(2) After receiving a request meeting the above criteria, the secretary or his designee will contact the contractor to schedule a conference for the earliest mutually convenient time. The conference shall be scheduled for no later than thirty days after a properly completed request is received unless both parties agree in writing to a specified later date.

(3) The contractor and appropriate representatives of the department shall attend the conference. In addition, representatives selected by the contractor may attend and participate. The contractor shall bring to the conference, or provide to the department in advance of the conference, any documentation on which it intends to rely to support its contentions. The parties shall clarify and attempt to resolve the issues at the conference. If additional documentation is needed to resolve the issues, a second session of the conference shall be scheduled for not later than thirty days after the initial session unless both parties agree in writing to a specific later date.

(4) A written decision by the secretary will be furnished to the contractor within thirty days after the conclusion of the conference. The secretary shall prepare such decision for the fiscal and other appropriate standing committees of the legislature.

(5) If the contractor desires review of an adverse decision of the secretary, it shall within thirty days following receipt of such decision request a fair hearing in writing in accordance with the provisions of chapter 34.04 RCW. [1980 c 177 § 78.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.790 Denial, suspension, or revocation of license or provisional license—Penalties. (Effective July 1, 1982.) The department is authorized to deny, suspend, or revoke a license or provisional license or, in lieu thereof or in addition thereto, assess monetary penalties of a civil nature not to exceed one thousand dollars per violation in any case in which it finds that the licensee, or any partner, officer, director, owner of five percent or more of the assets of the nursing home, or managing employee:

(1) Failed or refused to comply with the requirements of this chapter or the rules and regulations established hereunder; or

(2) Has knowingly or with reason to know made a false statement of a material fact in any record required by this chapter; or

(3) Refused to allow representatives or agents of the department to inspect all books, records, and files required by this chapter to be maintained or any portion of the premises of the nursing home; or

(4) Wilfully prevented, interfered with, or attempted to impede in any way the work of any duly authorized representative of the department and the lawful enforcement of any provision of this chapter; or

(5) Wilfully prevented or interfered with any representative of the department in the preservation of evidence of any violation of any of the provisions of this

chapter or the rules and regulations promulgated hereunder. [1980 c 177 § 79.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.800 Rule-making authority—Review of standards. (Effective July 1, 1982.) The department shall adopt, promulgate, amend, and rescind such administrative rules as are necessary to carry out the policies and purposes of this chapter. In addition, at least annually the department shall review changes to generally accepted accounting principles and generally accepted auditing standards as approved by the financial accounting standards board, and the American institute of certified public accountants, respectively. The department shall adopt by administrative rule those approved changes which it finds to be consistent with the policies and purposes of this chapter. [1980 c 177 § 80.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.810 Responsibility for audits in the transition period. (Effective July 1, 1982.) The department, pursuant to RCW 74.09.560, shall be responsible for the completion of all audits for cost reports covering all periods through December 31, 1980. [1980 c 177 § 81.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.820 Public disclosure. (Effective July 1, 1982.) (1) Cost reports and their final audit reports with any accompanying schedule of questioned costs submitted to the secretary shall be subject to public disclosure pursuant to the requirements of chapter 42.17 RCW. Notwithstanding any other provision of law, financial statements and any accompanying schedules summarizing the adjustments to a contractor's financial records, reports on review of internal control and accounting procedures, and letters of comments or recommendations relating to suggested improvements in internal control or accounting procedures which are prepared pursuant to the requirements of this chapter shall be exempt from public disclosure.

(2) Regardless of whether any document or report submitted to the secretary pursuant to this chapter is subject to public disclosure, copies of such documents or reports shall be provided by the secretary, upon written request, to the legislature and to state agencies or state or local law enforcement officials who have an official interest in the contents thereof. [1980 c 177 § 82.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.830 Development of exception profile process. The office of the state auditor with the cooperation and assistance of the department shall develop an exception profile process to be utilized in the analysis required under RCW 74.46.110. This exception profile process shall be implemented not later than December 1, 1981. [1980 c 177 § 83.]

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.840 Conflict with federal requirements. (Effective July 1, 1982.) If any part of *this act is found by an agency of the federal government to be in conflict with federal requirements which are a prescribed condition to the receipts of federal funds to the state, the conflicting part of this act is hereby declared inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and such finding or determination shall not affect the operation of the remainder of this act in its application to the agencies concerned. In the event that any portion of this act is found to be in conflict with federal requirements which are a prescribed condition to the receipt of federal funds, the secretary, to the extent that the secretary finds it to be consistent with the general policies and intent of this chapter, may adopt such rules as to resolve a specific conflict and which do meet minimum federal requirements. In addition, the secretary shall submit to the next regular session of the legislature a summary of the specific rule changes made and recommendations for statutory resolution of the conflict. [1980 c 177 § 92.]

***Reviser's note:** For translation of sections in "this act," see note following RCW 74.46.410.

Effective dates—1980 c 177: See RCW 74.46.901.

74.46.900 Severability—1980 c 177. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1980 c 177 § 93.]

74.46.901 Effective dates—1980 c 177. (1) *Sections 2, 7, 83, 85, 86, and 91 of this 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.

(2) **Section 27 of this act shall take effect on July 1, 1980.

(3) ***Sections 3, 4, 5, 6, 8, 9, 11, and 12 of this act shall take effect on July 1, 1981.

(4) All other sections of ****this act shall take effect on July 1, 1982, which shall be "the effective date of this act" where that term is used in this act. [1980 c 177 § 94.]

Reviser's note: *(1) Sections 2, 7, and 83 are RCW 74.46.020, 74.46.070 and 74.46.830, respectively. Section 85 consists of amendments to RCW 74.42.610, and section 86 is quoted as a note following RCW 74.42.610. Section 91 is an appropriation section. This act was signed by the governor and filed on April 4, 1980.

** (2) Section 27 is codified as RCW 74.46.270.

*** (3) Sections 3 through 6 are codified as RCW 74.46.030 through 74.46.060. Sections 8, 9, 11, and 12 are RCW 74.46.080, 74.46.090, 74.46.110, and 74.46.120, respectively.

**** (4) For disposition of sections of "this act," see note following RCW 74.46.410.

74.46.902 Section captions. Section captions as used in this act do not constitute any part of the law. [1980 c 177 § 89.]

Title 75
FOOD FISH AND SHELLFISH

Chapters

- 75.08 Administration and enforcement.**
- 75.18 Preservation of salmon resources.**
- 75.25 Razor clam digging.**
- 75.28 Licenses.**
- 75.32 Privilege fees and fish sales taxes.**
- 75.48 Salmon enhancement facilities bond issue.**
- 75.98 Construction.**

Chapter 75.08

ADMINISTRATION AND ENFORCEMENT

Sections

- 75.08.080 Rules and regulations—Scope.
- 75.08.150 Enforcement of laws and regulations—Ex officio deputies. (Effective July 1, 1981.)
- 75.08.200 Service, execution of warrants, processes—Assistance. (Effective July 1, 1981.)

75.08.080 Rules and regulations—Scope. (1) The director shall investigate the habits, supply and economic use of, and classify, the food fish and shellfish in the waters of the state and the offshore waters, and from time to time, make, adopt, amend, and promulgate rules and regulations as follows:

(a) Specifying the times when the taking of any or all the various classes of food fish and shellfish is lawful or prohibited.

(b) Specifying and defining the areas, places, and waters in which the taking and possession of the various classes of food fish and shellfish is lawful or prohibited.

(c) Specifying and defining the types and sizes of gear, appliances, or other means that may be lawfully used in taking the various classes of food fish and shellfish, and specifying the times, places, and manner in which it shall be lawful to possess or use the same.

(d) Regulating the possession, disposal, and sale of food fish and shellfish within the state, whether acquired within or without the state, and specifying the times when the possession, disposal, or sale of the various species of food fish or shellfish is prohibited.

(e) Regulating the prevention and suppression of all infectious, contagious, dangerous, and communicable diseases and pests affecting food fish and shellfish.

(f) The fixing of the size, sex, numbers, and amounts of the various classes of food fish and shellfish that may be taken, possessed, sold, or disposed of.

(g) Regulating the landing of the various classes of food fish and shellfish or parts thereof within the state.

(h) Regulating the destruction of predatory seals and sea lions and other predators destructive of food fish or shellfish, and specifying the proof of the destruction of the same that shall be required.

(i) Specifying the statistical and biological reports that shall be required from licensed or nonlicensed fishermen, dealers, boathouses, handlers, or processors of food fish and shellfish.

(j) Specifying which species of marine and freshwater life are food fish and shellfish.

(k) Classifying the species of food fish and shellfish or parts thereof that may be used for purposes other than human consumption.

(1) Promulgating such other rules and regulations as may be necessary to carry out the provisions of this title and the purposes and duties of the department.

(2) Subsections (1)(a), (b), (c), (d), (f), and (g) of this section do not apply to:

(a) Licensed oyster farms or oysters produced thereon; or

(b) Private tideland owners and lessees of state tidelands, when taking or possessing oysters, clams, cockles, borers, or mussels, excluding razor clams, produced on their own private tidelands or leased state tidelands for personal use. [1980 c 55 § 1; 1955 c 12 § 75.08.080. Prior: 1949 c 112 § 6, part; Rem. Supp. 1949 § 5780-205, part.]

75.08.150 Enforcement of laws and regulations—Ex officio deputies. (Effective July 1, 1981.) Every fisheries inspector, deputy fisheries inspector, wildlife agent, sheriff, constable, marshal, and police officer within his respective jurisdiction, shall enforce all laws and all rules and regulations adopted by the director for the protection of food fish and shellfish, and the police officers specified, and United States game wardens, any forest officer appointed by the United States government, state forest wardens and rangers, and each of them, by virtue of their election or appointment, are constituted ex officio deputy fisheries inspectors within their respective jurisdictions. [1980 c 78 § 133; 1955 c 12 § 75.08.150. Prior: 1949 c 112 § 22; Rem. Supp. 1949 § 5780-220.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

75.08.200 Service, execution of warrants, processes—Assistance. (Effective July 1, 1981.) The director, all fisheries inspectors, and all deputy fisheries inspectors may serve and execute all warrants and processes issued by the courts in enforcing the provisions of law and all rules and regulations of the director pertaining to food fish and shellfish.

For the purpose of enforcing any such law or rule or regulation, they may call to their aid any necessary equipment, boat, vehicle, or airplane, or any sheriff, deputy sheriff, wildlife agent, constable, police officer, or citizen, and any such person shall render such aid. [1980 c 78 § 134; 1955 c 12 § 75.08.200. Prior: 1949 c 112 § 21; Rem. Supp. 1949 § 5780-219.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Chapter 75.18

PRESERVATION OF SALMON RESOURCES

Sections

- 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, expiration date.

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 82.27 RCW or through other adequate funding methods. [1980 c 98 § 8; 1977 ex.s. c 327 § 1.]

Effective date—Implementation—1980 c 98: See RCW 82.27.900.

Severability—1977 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 ex.s. c 327 § 34.]

Effective date—1977 ex.s. c 327: "This 1977 amendatory act shall take effect on January 1, 1978." [1977 ex.s. c 327 § 35.]

75.18.110 Salmon enhancement facilities program—Requirements and factors to be considered—Salmon advisory council, expiration date. (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 thirteen 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; three shall represent sportsmen; two shall be members of Indian tribes of this state who shall be appointed from a list submitted by the Northwest Indian Fisheries Commission; and two shall represent fish processors, of which one shall represent fresh or frozen fish processors and one shall represent canneries.

The terms of the initial members appointed by the governor expire on December 31, 1979. Thereafter, all members appointed by the governor shall serve terms of two years.

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.

The salmon advisory council shall cease to exist on December 31, 1989. [1980 c 66 § 1; 1979 c 60 § 3; 1977 ex.s. c 327 § 2.]

Severability—1979 c 60: See note following RCW 75.28.095.

Severability—Effective date—1977 ex.s. c 327: See notes following RCW 75.18.100.

Chapter 75.25 RAZOR CLAM DIGGING

Sections

| | |
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| 75.25.040 | License fees. |
| 75.25.080 | Digging clams for disabled persons. |

75.25.040 License fees. (1) The fees for razor-clamming licenses are:

(a) For an annual resident license, two dollars and fifty cents; and

(b) For an annual nonresident license, ten dollars.

(2) Any resident sixty-five years of age or older or under sixteen years of age shall be issued, upon making an affidavit to such effect and upon payment of the dealer fee established in RCW 75.25.030, a personal use razor clam license at no cost.

(3) For the purposes of this chapter, "resident" means a person who, for at least thirty days immediately preceding 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.

(4) License fees received from the issuance of razor-clamming licenses shall be paid into the general fund and shall be subject to legislative appropriation until the cumulative total subject to legislative appropriation equals the appropriation under *section 11 of this act or so much of that appropriation as is actually used. Any excess over the amount appropriated or used shall be credited to the department of fisheries and shall be expended on the development or operation of programs beneficial to razor clam harvesting. [1980 c 81 § 1; 1979 ex.s. c 243 § 4.]

*Reviser's note: Section 11 of this act, chapter 243, Laws of 1979 ex.s., is an appropriation section and is not codified.

Effective date—1980 c 81: "This act shall take effect on July 1, 1980." [1980 c 81 § 3.]

75.25.080 Digging clams for disabled persons. It shall be lawful to dig the personal-use daily bag limit of razor clams for another person if that person has in possession a physical disability permit approved by the director. [1980 c 81 § 2.]

Effective date—1980 c 81: See note following RCW 75.25.040.

Chapter 75.28 LICENSES

Sections

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| 75.28.270 | Shellfish pots license. |
| 75.28.274 | Shellfish pots for taking crab—License fees. |

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| 75.28.275 | Licenses to take crab—Requirements, limitations. |
| 75.28.276 | Crab license review boards. |
| 75.28.277 | Crab license decisions—Review, appeal. |
| 75.28.650 | Anadromous salmon angling licenses—Nontransferable—Enforcement provisions. (Effective July 1, 1981.) |
| 75.28.800 | Herring Fleet Opportunity Board. |

75.28.270 Shellfish pots license. The fee for all licenses prescribed in this chapter employing shellfish pots in the taking of fish and shellfish, excluding crab, shall be thirty-five dollars per annum for residents and sixty dollars per annum for nonresidents. For each shellfish pot in excess of one hundred there shall be paid an additional fee of twenty-five cents per annum by residents and fifty cents per annum by nonresidents. [1980 c 133 § 2; 1965 ex.s. c 73 § 17; 1959 c 309 § 25; 1955 c 12 § 75.28.270. Prior: 1951 c 271 § 25; 1949 c 112 § 69(17); Rem. Supp. 1949 § 5780–507(17).]

Severability—1980 c 133: "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." [1980 c 133 § 8.]

Legislative findings—1980 c 133: "The legislature finds that a significant commercial crab fishery is developing within Puget Sound. The legislature further finds that the crab fishery in Puget Sound represents a separate and distinct fishery from that of the coastal waters and is limited in quantity and is in need of conservation. The potential for depletion of the crab stocks in these waters is increasing, particularly as crab fishing becomes an attractive alternative to fishermen facing increasing restrictions on commercial salmon fishing.

The legislature finds that the number of commercial fishermen engaged in crab fishing has steadily increased. This factor, combined with advances in fishing and marketing techniques, has resulted in strong pressures on the supply of crab, unnecessary waste of an important natural resource, and economic loss to the citizens of the state.

The legislature finds that increased regulation of commercial crab fishing is necessary to preserve and efficiently manage the commercial crab fishery in the waters of Puget Sound." [1980 c 133 § 1.]

75.28.274 Shellfish pots for taking crab—License fees. The fee for all licenses prescribed in this chapter employing shellfish pots in the taking of crab shall be thirty-five dollars per annum for residents and sixty dollars per annum for nonresidents. For each shellfish pot in excess of one hundred, there shall be paid an additional fee of twenty-five cents per annum by residents and fifty cents per annum by nonresidents. [1980 c 133 § 3.]

Severability—Legislative findings—1980 c 133: See notes following RCW 75.28.270.

75.28.275 Licenses to take crab—Requirements, limitations. (1) After January 1, 1981, it is unlawful to take crab in the Puget Sound licensing district without first obtaining a license endorsement therefor. Commercial crab licenses issued under RCW 75.28.274 endorsed for the Puget Sound licensing district shall be limited to those vessels which:

(a) Held a commercial shellfish pot license issued between January 1, 1975, and December 31, 1979, or had transferred to the vessel such a license;

(b) Have not transferred the license to another vessel;

(c) Can establish, by means of shellfish receiving documents issued by the department, that one thousand pounds of crab were caught and landed in the Puget

Sound licensing district under the license during any one year in that period; and

(d) Held, and have not transferred, a shellfish pot license during 1980.

(2) In addition to the requirements of subsection (1) of this section, after January 1, 1982, commercial crab licenses endorsed for the Puget Sound licensing district may be issued only to vessels which held a commercial crab license during the previous year or had transferred to the vessel such a license. Where the failure to obtain the license during the previous year was the result of a license suspension or revocation by the department, the vessel may qualify for a license by establishing that the vessel held such a license during the last year in which it was eligible.

(3) The issuance of commercial crab licenses for areas other than the Puget Sound licensing district is not restricted by this section.

(4) License endorsements issued under this section are not transferable from one owner to another owner, except from parent to child or upon the death of the owner, before July 1, 1982. [1980 c 133 § 4.]

Severability—Legislative findings—1980 c 133: See notes following RCW 75.28.270.

75.28.276 Crab license review boards. The director shall appoint three-member advisory boards of review to hear cases as provided in RCW 75.28.277. The members of the boards shall be appointed from lists furnished by commercial fishery organizations or may be any persons from the commercial crab fishing industry the director deems qualified to serve on such a board. The members shall serve at the discretion of the director and 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 adopt rules concerning the operation of the review boards. [1980 c 133 § 5.]

Severability—Legislative findings—1980 c 133: See notes following RCW 75.28.270.

75.28.277 Crab license decisions—Review, appeal. A person aggrieved by a decision of the department under RCW 75.28.274 or 75.28.275 may request administrative review either as a contested case under chapter 34.04 RCW or under the informal review procedure provided by this section.

In an informal hearing before a board of review, the rules of evidence do not apply. A record of the proceeding shall be kept as provided in chapter 34.04 RCW. After hearing the case, the board of review shall notify in writing both the director and the initiating party as to whether the board agrees or disagrees with the decision of the department, together with the reasons for the board's findings. Upon receipt of the board's findings, the director may either uphold or reverse the department's actions.

A person aggrieved by a final decision of the director is entitled to judicial review under chapter 34.04 RCW.

If the final decision of the director results in the issuance of a commercial crab license, any person holding a commercial crab license is entitled to judicial review under chapter 34.04 RCW.

Nothing in this section may be construed to impose liability on members of the board of review for their actions under this section. [1980 c 133 § 6.]

Severability—Legislative findings—1980 c 133: See notes following RCW 75.28.270.

75.28.650 Anadromous salmon angling licenses—Nontransferable—Enforcement provisions. (Effective July 1, 1981.) 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, wildlife agent, 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. [1980 c 78 § 135; 1977 ex.s. c 327 § 15.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Severability—Effective date—1977 ex.s. c 327: See notes following RCW 75.18.100.

75.28.800 Herring Fleet Opportunity Board. With recognition of the efforts of the department of fisheries and of those regulations presently existing for the protection and perpetuation of existing herring stocks in RCW 75.28.390 through 75.28.440, the legislature finds that the existing opportunity to engage in the herring harvest is not equitable.

There is hereby created a five member Herring Fleet Opportunity Board to be appointed by the governor within thirty days after June 12, 1980, for terms ending at the conclusion of the 1983 session of the legislature, consisting of two purse seine operators who do not harvest herring in Washington state, two gillnet operators who do not harvest herring in Washington state, and one Washington department of fisheries representative familiar with the herring resource, for the purpose of creating a more equitable harvesting system. The board shall present to the legislature before the start of the 1981 session its recommendations and evaluation of the regulations pertinent to such herring harvesting. Board member expenses for attendance upon meetings shall be paid out of funds otherwise appropriated for department of fisheries purposes. Department of fisheries staff shall provide the necessary staff assistance and supplies for board operation. [1980 c 113 § 1.]

Chapter 75.32
PRIVILEGE FEES AND FISH SALES TAXES

Sections
75.32.001 through 75.32.130 Repealed.

75.32.001 through 75.32.130 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 75.48
**SALMON ENHANCEMENT FACILITIES BOND
ISSUE**

Sections
75.48.020 Issuance of general obligation bonds authorized—
Purpose—Use—Terms—Appropriation
required.

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-two 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. [1980 c 15 § 1; 1977 ex.s. c 308 § 2.]

Chapter 75.98
CONSTRUCTION

Sections
75.98.040 Construction of certain sections.

75.98.040 Construction of certain sections. Nothing in RCW 75.08.014, 75.08.025, 75.08.203, 75.08.206, 75.28.020, 75.28.030, 75.28.300(4), and 75.28.370 shall be construed to restrict or impair the authority of the director of fisheries consistent with and pursuant to the provisions thereof from issuing and publishing such regulations as, after investigation, he may deem necessary to administer said sections and to effectuate their purposes, or to administer and effectuate all other acts governing or affecting the department of fisheries, nor shall anything herein be construed to restrict or impair the authority of the director to issue and publish regulations he may find necessary under the provisions of the Pacific marine fisheries compact. [1980 c 98 § 9; 1979 c 66 § 3; 1955 c 12 § 75.98.040.]

Effective date—Implementation—1980 c 98: See RCW 82.27.900.

Severability—1955: "The several provisions of this act are hereby declared to be separate and severable and if any clause, sentence, paragraph, subdivision, section or part thereof shall, for any reason, be adjudged invalid, or the applicability thereof to any person, circumstance or product adjudged invalid, such judgment shall not affect, impair or invalidate the remainder of the act, and the applicability thereof to other persons, circumstances or products shall not thereby be affected, but such judgment, if any, shall be confined in its operation to the particular clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered." [(i) 1955 c 212 § 15. (ii) 1955 c 276 § 5.] This applies to RCW 75.08.040, 75.12.140, 75.12.150, 75.12.160, 75.24.090, 75.28.040, 75.28.060, 75.28.090, 75.28.255, 75.28.280, 75.28.281, 75.28.282, 75.28.300, 75.32.030 and 75.32.051.

Title 76
FORESTS AND FOREST PRODUCTS

Chapters

76.04 Forest protection.
76.12 Reforestation.

Chapter 76.04
FOREST PROTECTION

Sections
76.04.480 Repealed. (Effective January 1, 1981.)

76.04.480 Repealed. (Effective January 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 76.12
REFORESTATION

Sections
76.12.120 Sales and leases of timber, timber land, or products thereon—Disposition of revenue. (Effective September 1, 1981.)

76.12.120 Sales and leases of timber, timber land, or products thereon—Disposition of revenue. (Effective September 1, 1981.) All land, acquired or designated by the board as state forest land, shall be forever reserved from sale, but the timber and other products thereon may be sold or the land may be leased in the same manner and for the same purposes as is authorized for state granted land if the board finds such sale or lease to be in the best interests of the state and approves the terms and conditions thereof.

All money derived from the sale of timber or other products, or from lease, or from any other source from the land, except where the Constitution of this state or RCW 76.12.030 requires other disposition, shall be disposed of as follows:

(1) Fifty percent shall be placed in the forest development fund.

(2) Fifty percent shall be prorated and distributed to the state general fund, to be dedicated for the benefit of

the public schools, and the county in which the land is located according to the relative proportions of tax levies of all taxing districts in the county. The portion to be distributed to the state general fund shall be based on the regular school levy rate under RCW 84.52.065 as now or hereafter amended and the levy rate for any maintenance and operation special school levies. The money distributed to the county shall be paid, distributed, and prorated to the various other funds in the same manner as general taxes are paid and distributed during the year of payment. [1980 c 154 § 11; 1971 ex.s. c 123 § 4; 1955 c 116 § 1; 1953 c 21 § 1; 1923 c 154 § 7; RRS § 5812-7.]

Purpose—Effective date—Savings—Disposition of certain funds—Severability—1980 c 154: See notes following chapter 82.45 RCW digest.

Christmas trees—Cutting, breaking, removing: RCW 79.40.070 and 79.40.080.

Forest development fund: See note following RCW 76.12.030.

Title 77

GAME AND GAME FISH

Chapters

- 77.04 Department of game.
- 77.08 General terms defined.
- 77.12 Powers and duties of commission.
- 77.16 Prohibited acts and penalties.
- 77.20 Beaver.
- 77.21 Penalties—Proceedings.
- 77.24 Predators—Bounties.
- 77.28 Game farmers.
- 77.32 Licenses.
- 77.40 Shooting grounds.
- 77.98 Construction.

Chapter 77.04

DEPARTMENT OF GAME

Sections

- 77.04.010 Short title. (Effective July 1, 1981.)
- 77.04.020 Composition of department—Duties and powers. (Effective July 1, 1981.)
- 77.04.030 Game commission—Appointment. (Effective July 1, 1981.)
- 77.04.040 Game commission—Qualifications of members. (Effective July 1, 1981.)
- 77.04.050 Repealed. (Effective July 1, 1981.)
- 77.04.060 Game commission—Meetings—Officers—Selection of director—Compensation, travel expenses. (Effective July 1, 1981.)
- 77.04.080 Director—Qualifications—Salary—Powers. (Effective July 1, 1981.)
- 77.04.090 Rules—Adoption—Certified copy as evidence. (Effective July 1, 1981.)

77.04.010 Short title. (Effective July 1, 1981.) This title is known and may be cited as "Game Code of the State of Washington." [1980 c 78 § 2; 1955 c 36 § 77.04.010. Prior: 1947 c 275 § 1; Rem. Supp. 1947 § 5992-11.]

Effective date—1980 c 78: "This act shall take effect on July 1, 1981." [1980 c 78 § 137.]

Intent, construction—1980 c 78: "In enacting this 1980 act, it is the intent of the legislature to revise and reorganize the game code of this state to clarify and improve the administration of the state's game laws. Unless the context clearly requires otherwise, the revisions made to the game code by this act are not to be construed as substantive." [1980 c 78 § 1.]

Savings—1980 c 78: "This act shall not have the effect of terminating or in any way modifying any proceeding or liability, civil or criminal, which exists on the effective date of this act." [1980 c 78 § 138.]

Severability—1980 c 78: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 78 § 139.]

77.04.020 Composition of department—Duties and powers. (Effective July 1, 1981.) The department of game consists of the state game commission and the director of game. The director is responsible for the administration and operation of the department. The commission may delegate to the director additional duties and powers necessary and appropriate to carry out this title. The director shall perform the duties prescribed by law and the commission. [1980 c 78 § 3; 1955 c 36 § 77.04.020. Prior: 1947 c 275 § 2; Rem. Supp. 1947 § 5992-12.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.04.030 Game commission—Appointment. (Effective July 1, 1981.) The state game commission consists of six voters of the state. In January of each odd-numbered year, the governor shall appoint two voters to the commission to serve for terms of six years from that January or until their successors are appointed and qualified. If a vacancy occurs on the commission prior to the expiration of a term, the governor shall appoint a voter within sixty days to complete the term. Three members shall be residents of that portion of the state lying east of the summit of the Cascade mountains, and three shall be residents of that portion of the state lying west of the summit of the Cascade mountains. No two members may be residents of the same county. The legal office of the commission is at the administrative office of the department in Olympia. [1980 c 78 § 4; 1955 c 36 § 77.04.030. Prior: 1947 c 275 § 3; Rem. Supp. 1947 § 5992-13.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.04.040 Game commission—Qualifications of members. (Effective July 1, 1981.) Persons eligible for appointment as members of the commission shall have general knowledge of the habits and distribution of wildlife and shall not hold another state, county, or municipal elective or appointive office. [1980 c 78 § 5; 1955 c 36 § 77.04.040. Prior: 1947 c 275 § 4; Rem. Supp. 1947 § 5992-14.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.04.050 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.04.060 Game commission—Meetings—Officers—Selection of director—Compensation, travel expenses. (Effective July 1, 1981.) The commission shall hold regular meetings within the first ten days of January, April, July, and October of each year, and special meetings when called by the chairman or by four members. Four members constitute a quorum for the transaction of business.

The commission at a meeting in each odd-numbered year shall elect one of its members as chairman and another member as vice chairman, each of whom shall serve for a term of two years or until a successor is elected and qualified.

When a vacancy in the office of the director has occurred, the commission shall elect a director by approval of four members. The director shall hold office at the pleasure of the commission.

Members of the commission may receive twenty-five dollars for each day actually spent in the performance of official duties. In addition, members are allowed their travel expenses incurred while absent from their usual places of residence in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [1980 c 78 § 6; 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—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

77.04.080 Director—Qualifications—Salary—Powers. (Effective July 1, 1981.) Persons eligible for appointment as director shall have practical knowledge of the habits and distribution of wildlife. The director shall receive the salary fixed by the governor under RCW 43.03.040.

The director is the ex officio secretary of the commission and shall attend its meetings and keep a record of its business.

The director may appoint and employ necessary personnel. The director may delegate, in writing, to department personnel the duties and powers necessary for efficient operation and administration of the department. [1980 c 78 § 8; 1955 c 36 § 77.04.080. Prior: 1947 c 275 § 8; Rem. Supp. 1947 § 5992-18.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.04.090 Rules—Adoption—Certified copy as evidence. (Effective July 1, 1981.) The commission shall adopt permanent rules and amendments to or repeals of existing rules by approval of four members by resolution, entered and recorded in the minutes of the commission. The commission shall adopt emergency rules by approval of four members. The commission shall adopt rules in

conformance with chapter 34.04 RCW. Judicial notice shall be taken of the rules filed and published as provided in RCW 34.04.040 and 34.04.050.

A copy of an emergency rule, certified as a true copy by a member of the commission, the director, or by a person authorized in writing by the director to make the certification, is admissible in court as prima facie evidence of the adoption and validity of the rule. [1980 c 78 § 16; 1955 c 36 § 77.12.050. Prior: 1947 c 275 § 15; Rem. Supp. 1947 § 5992-25. Formerly RCW 77.12.050.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Chapter 77.08

GENERAL TERMS DEFINED

Sections

| | |
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| 77.08.010 | Definitions. (Effective July 1, 1981.) |
| 77.08.020 | "Game fish" defined. (Effective July 1, 1981.) |
| 77.08.030 | "Big game" defined. (Effective July 1, 1981.) |
| 77.08.040 | Repealed. (Effective July 1, 1981.) |
| 77.08.050 | Repealed. (Effective July 1, 1981.) |
| 77.08.060 | Repealed. (Effective July 1, 1981.) |

77.08.010 Definitions. (Effective July 1, 1981.) As used in this title or rules of the commission, unless the context clearly requires otherwise:

- (1) "Director" means the director of game.
- (2) "Department" means the department of game.
- (3) "Commission" means the state game commission.
- (4) "Person" means and includes an individual, a corporation, or a group of two or more individuals acting with a common purpose whether acting in an individual, representative, or official capacity.
- (5) "Wildlife agent" means a person appointed and commissioned by the director, with authority to enforce laws of this title, rules of the commission, and other statutes as prescribed by the legislature.
- (6) "Ex officio wildlife agent" means a commissioned officer of a municipal, county, state, or federal agency having as its primary function the enforcement of criminal laws in general, while the officer is in the appropriate jurisdiction. The term "ex officio wildlife agent" includes fisheries patrol officers, special agents of the national marine fisheries commission, state parks commissioned officers, United States fish and wildlife special agents, department of natural resources enforcement officers, and United States forest service officers, while the agents and officers are within their respective jurisdictions.
- (7) "To hunt" and its derivatives means an effort to kill, injure, capture, or harass a wild animal or wild bird.
- (8) "To trap" and its derivatives means a method of hunting using devices to capture wild animals or wild birds.
- (9) "To fish" and its derivatives means an effort to kill, injure, harass, or catch a game fish.
- (10) "Open season" means those times, manners of taking, and areas or waters established by rule of the commission for the lawful hunting, fishing, or possession

of game animals, game birds, or game fish. "Open season" includes the first and last days of the established time.

(11) "Closed season" means all times, manners of taking, and areas or waters other than those established as an open season.

(12) "Closed area" means a place where the commission has prohibited by rule the hunting of some species of wild animals or wild birds.

(13) "Closed waters" means all or part of a lake, river, stream, or other body of water, where the commission has prohibited by rule fishing for game fish.

(14) "Game reserve" means a closed area where the commission has prohibited by rule hunting for all wild animals and wild birds.

(15) "Bag limit" means the maximum number of game animals, game birds, or game fish which may be taken, caught, killed, or possessed by a person, as specified by rule of the commission for a particular period of time, or as to size, sex, or species.

(16) "Wildlife" means all species of the animal kingdom whose members exist in Washington in a wild state. This includes but is not limited to mammals, birds, reptiles, amphibians, fish, and invertebrates. The term "wildlife" does not include feral domestic mammals, the family Muridae of the order Rodentia (old world rats and mice), or those fish, shellfish, and marine invertebrates classified by the director of fisheries. The term "wildlife" includes all stages of development and the bodily parts of wildlife members.

(17) "Wild animals" means those species of the class Mammalia whose members exist in Washington in a wild state and the species *Rana catesbeiana* (bullfrog). The term "wild animal" does not include feral domestic mammals or the family Muridae of the order Rodentia (old world rats and mice).

(18) "Wild birds" means those species of the class Aves whose members exist in Washington in a wild state.

(19) "Protected wildlife" means wildlife designated by rule of the commission that shall not be hunted or fished.

(20) "Endangered species" means wildlife designated by rule of the commission as seriously threatened with extinction.

(21) "Game animals" means wild animals that shall not be hunted except as authorized by rule of the commission.

(22) "Fur-bearing animals" means game animals that shall not be trapped except as authorized by rule of the commission.

(23) "Game birds" means wild birds that shall not be hunted except as authorized by rule of the commission.

(24) "Predatory birds" means wild birds that may be hunted throughout the year as authorized by rule of the commission.

(25) "Deleterious exotic wildlife" means species of the animal kingdom not native to Washington and designated by rule of the commission as dangerous to the environment or wildlife of the state.

(26) "Game farm" means property on which wildlife is held or raised for commercial purposes, trade, or gift. The term "game farm" does not include publicly owned facilities. [1980 c 78 § 9; 1955 c 36 § 77.08.010. Prior: 1947 c 275 § 9; Rem. Supp. 1947 § 5992-19.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.08.020 "Game fish" defined. (Effective July 1, 1981.) As used in this title or rules of the commission, "game fish" means those species of the class Osteichthyes that shall not be fished for except as authorized by rule of the commission and includes:

| Scientific Name | Common Name |
|--|----------------------------|
| <i>Ambloplites rupestris</i> | rock bass |
| <i>Coregonus clupeaformis</i> | lake white fish |
| <i>Ictalurus furcatus</i> | blue catfish |
| <i>Ictalurus melas</i> | black bullhead |
| <i>Ictalurus natalis</i> | yellow bullhead |
| <i>Ictalurus nebulosus</i> | brown bullhead |
| <i>Ictalurus punctatus</i> | channel catfish |
| <i>Lepomis cyanellus</i> | green sunfish |
| <i>Lepomis gibbosus</i> | pumpkinseed |
| <i>Lepomis gulosus</i> | warmouth |
| <i>Lepomis macrochirus</i> | bluegill |
| <i>Lota lota</i> | burbot or fresh water ling |
| <i>Micropterus dolomieu</i> | smallmouth bass |
| <i>Micropterus salmoides</i> | largemouth bass |
| <i>Oncorhynchus nerka</i> (in its landlocked form) | kokanee or silver trout |
| <i>Perca flavescens</i> | yellow perch |
| <i>Pomixis annularis</i> | white crappie |
| <i>Pomixis nigromaculatus</i> | black crappie |
| <i>Prosopium williamsoni</i> | mountain white fish |
| <i>Salmo aquabonita</i> | golden trout |
| <i>Salmo clarkii</i> | cutthroat trout |
| <i>Salmo gairdnerii</i> | rainbow or steelhead trout |
| <i>Salmo salar</i> | atlantic salmon |
| <i>Salmo trutta</i> | brown trout |
| <i>Salvelinus fontinalis</i> | eastern brook trout |
| <i>Salvelinus malma</i> | Dolly Varden trout |
| <i>Salvelinus namaycush</i> | lake trout |
| <i>Stizostedion vitreum</i> | Walleye |
| <i>Thymallus arcticus</i> | arctic grayling |

[1980 c 78 § 10; 1969 ex.s. c 19 § 1; 1955 c 36 § 77.08-.020. Prior: 1947 c 275 § 10; Rem. Supp. 1947 § 5992-20.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.08.030 "Big game" defined. (Effective July 1, 1981.) As used in this title or rules of the commission, "big game" means the following species:

| Scientific Name | Common Name |
|-------------------------------|-----------------------------|
| <i>Cervus canadensis</i> | elk or wapiti |
| <i>Odocoileus hemionus</i> | blacktail deer or mule deer |
| <i>Odocoileus virginianus</i> | whitetail deer |
| <i>Alces americana</i> | moose |
| <i>Oreamnos americanus</i> | mountain goat |

| | |
|-----------------------|-------------------------|
| Rangifer caribou | caribou |
| Ovis canadensis | mountain sheep |
| Antilocapra americana | pronghorn antelope |
| Felis concolor | cougar or mountain lion |
| Euarctos americana | black bear |
| Ursus horribilis | grizzly bear |

[1980 c 78 § 11; 1971 ex.s. c 166 § 1.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.08.040 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.08.050 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.08.060 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 77.12

POWERS AND DUTIES OF COMMISSION

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77.12.010 Policy of protection of wildlife. (Effective July 1, 1981.) Wildlife is the property of the state. The department shall preserve, protect, and perpetuate wildlife. Game animals, game birds, and game fish may be taken only at times or places, or in manners or quantities as in the judgment of the commission maximizes public recreational opportunities without impairing the supply of wildlife.

Nothing contained herein shall be construed to infringe on the right of a private property owner to control the owner's private property. [1980 c 78 § 12; 1977 c 74 § 1; 1955 c 36 § 77.12.010. Prior: 1947 c 275 § 11; Rem. Supp. 1947 § 5992–21.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.020 Wildlife to be classified. (Effective July 1, 1981.) (1) The commission shall investigate the habits and distribution of the various species of wildlife native to or adaptable to the habitats of the state. The commission shall determine whether a species should be managed by the department and, if so, classify it under this section.

(2) The commission may classify by rule wild animals as game animals and game animals as fur-bearing animals.

(3) The commission may classify by rule wild birds as game birds or predatory birds. All wild birds not otherwise classified are protected wildlife.

(4) In addition to those species listed in RCW 77.08-.020, the commission may classify by rule as game fish other species of the class Osteichthyes that are commonly found in fresh water except those classified as food fish by the director of fisheries.

(5) If the commission determines that a species of wildlife should not be hunted or fished, the commission may designate it protected wildlife by rule.

(6) If the commission determines that a species of wildlife is seriously threatened with extinction in the state of Washington, the commission may designate it an endangered species by rule.

(7) If the commission determines that a species of the animal kingdom not native to Washington is dangerous

to the environment or wildlife of the state, the commission may designate it deleterious exotic wildlife by rule. [1980 c 78 § 13; 1969 ex.s. c 18 § 1; 1955 c 36 § 77.12-.020. Prior: 1947 c 275 § 12; Rem. Supp. 1947 § 5992–22.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.030 Authority to regulate wildlife. (Effective July 1, 1981.) The commission may regulate the collection, distribution, importation, transportation, and sale of wildlife and deleterious exotic wildlife species. [1980 c 78 § 14; 1969 ex.s. c 18 § 2; 1955 c 36 § 77.12.030. Prior: 1947 c 275 § 13; Rem. Supp. 1947 § 5992–23.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.040 Regulating the taking of game—Game reserves, closed areas and waters. (Effective July 1, 1981.) The commission shall adopt, amend, or repeal, and enforce reasonable rules prohibiting or governing the time, place, and manner of taking or possessing game animals, game birds, or game fish. The commission may specify the quantities, species, sex, and size of game animals, game birds, or game fish that may be taken or possessed.

The commission may establish by rule game reserves and closed areas where hunting for wild animals or wild birds may be prohibited and closed waters where fishing for game fish may be prohibited. [1980 c 78 § 15; 1969 ex.s. c 18 § 3; 1955 c 36 § 77.12.040. Prior: 1947 c 275 § 14; Rem. Supp. 1947 § 5992–24.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.050 Recodified as RCW 77.04.090. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.12.055 Authority of director and wildlife agents. (Effective July 1, 1981.) Jurisdiction and authority granted under RCW 77.12.060, 77.12.070, and 77.12-.080 to the director, wildlife agents, and ex officio wildlife agents is limited to the laws and rules of the commission pertaining to wildlife or to the management, operation, maintenance, or use of or conduct on real property used, owned, leased, or controlled by the department and other statutes as prescribed by the legislature. [1980 c 78 § 17.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.060 Service of process by wildlife agents—Aid by citizens. (Effective July 1, 1981.) The director, wildlife agents, and ex officio wildlife agents may serve and execute warrants and process issued by the courts to enforce the law and rules of the commission.

To enforce these laws or rules, they may call to their aid any ex officio wildlife agent or citizen and that person shall render aid. [1980 c 78 § 18; 1961 c 68 § 1;

1955 c 36 § 77.12.060. Prior: 1947 c 275 § 16; Rem. Supp. 1947 § 5992-26.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.070 Duties of wildlife agents. (Effective July 1, 1981.) Wildlife agents and ex officio wildlife agents within their respective jurisdictions shall enforce the law and rules of the commission. [1980 c 78 § 19; 1971 ex.s. c 173 § 1; 1961 c 68 § 2; 1955 c 36 § 77.12.070. Prior: 1947 c 275 § 17; Rem. Supp. 1947 § 5992-27.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.080 Arrest without warrant. (Effective July 1, 1981.) Wildlife agents and ex officio wildlife agents may arrest without warrant persons found violating the law or rules of the commission. [1980 c 78 § 20; 1971 ex.s. c 173 § 2; 1961 c 68 § 3; 1955 c 36 § 77.12.080. Prior: 1947 c 275 § 18; Rem. Supp. 1947 § 5992-28.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.090 Search without warrant. (Effective July 1, 1981.) Wildlife agents, and ex officio wildlife agents may make a reasonable search without warrant of conveyances, vehicles, packages, game baskets, game coats, or other receptacles for wildlife, or tents, camps, or similar places which they have reason to believe contain evidence of a violation of law or rules of the commission. [1980 c 78 § 21; 1955 c 36 § 77.12.090. Prior: 1947 c 275 § 19; Rem. Supp. 1947 § 5992-29.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.095 Inspections of game farms and records of taxidermists, fur dealers. (Effective July 1, 1981.) Wildlife agents may inspect without warrant at reasonable times and in a reasonable manner the premises of a game farm licensed under RCW 77.32.211 and the records of the game farmer or a taxidermist or fur dealer licensed under RCW 77.32.211. [1980 c 78 § 22.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.100 Seizure of contraband wildlife and devices. (Effective July 1, 1981.) Wildlife agents and ex officio wildlife agents may seize without warrant wildlife believed to have been unlawfully taken, killed, transported, or possessed, and articles or devices believed to have been unlawfully used or held with intent to unlawfully use in hunting or fishing. "Articles or devices," as used in this title or rules of the commission, means things used to hunt, fish for, possess, or transport wildlife and includes boats, other vehicles, and fishing and hunting equipment. [1980 c 78 § 23; 1955 c 36 § 77.12.100. Prior: 1947 c 275 § 20; Rem. Supp. 1947 § 5992-30.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.105 Authority to retain or transfer wildlife. (Effective July 1, 1981.) Except as otherwise provided in this title, a person who has lawfully acquired possession of wildlife and who desires to retain or transfer it may do so in accordance with the rules of the commission. [1980 c 78 § 71; 1977 c 44 § 2; 1955 c 36 § 77.16.030. Prior: 1947 c 275 § 42; Rem. Supp. 1947 § 5992-51. Formerly RCW 77.16.030.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.110 Recodified as RCW 77.21.040. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.12.120 Search for contraband game—Warrants. (Effective July 1, 1981.) Upon complaint showing probable cause for believing that wildlife unlawfully caught, taken, killed, controlled, possessed, or transported, is concealed or kept in a game basket, game coat, package, or other receptacle for wildlife, or at a business place, vehicle, or other place, the court shall issue a search warrant and have the place searched for wildlife. The court may have a building, enclosure, vehicle, or receptacle opened or entered and the contents examined. [1980 c 78 § 26; 1955 c 36 § 77.12.120. Prior: 1947 c 275 § 22; Rem. Supp. 1947 § 5992-32.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.130 Certain devices declared public nuisances. (Effective July 1, 1981.) Articles or devices unlawfully used, possessed, or maintained for catching, taking, killing, attracting, or decoying wildlife are public nuisances. If necessary, wildlife agents and ex officio wildlife agents may seize, abate, or destroy these public nuisances without warrant or process. [1980 c 78 § 27; 1955 c 36 § 77.12.130. Prior: 1947 c 275 § 23; Rem. Supp. 1947 § 5992-33.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.140 Acquisition or sale of wildlife. (Effective July 1, 1981.) The commission may obtain by purchase, gift, or exchange and may sell or transfer wildlife and their eggs for stocking, research, or propagation. [1980 c 78 § 28; 1955 c 36 § 77.12.140. Prior: 1947 c 275 § 24; Rem. Supp. 1947 § 5992-34.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.150 Game seasons—Opening and closing—Bag limits. (Effective July 1, 1981.) By emergency rule, the commission may close or shorten a season for game animals, game birds, or game fish, and after a season has been closed or shortened, may reopen it and reestablish bag limits on game animals, game birds, or game fish during that season.

If the director finds that game animals have increased in numbers in an area of the state so that they are damaging public or private property or over-utilizing their

habitat, the commission may establish by rule a special hunting season and designate the time, area, and manner of taking and the number and sex of the animals that may be killed or possessed by a licensed hunter. The director shall determine by random selection the identity of hunters who may hunt within the area and shall determine the conditions and requirements of the selection process. The commission shall include notice of the special season in the rules establishing open seasons. [1980 c 78 § 29; 1977 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.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.160 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.12.170 State game fund—Disposition of fees, fines, forfeitures, penalties. (Effective July 1, 1981.) (1) There is established in the state treasury the state game fund which consists of moneys received from:

- (a) Rentals or concessions of the department;
- (b) The sale of real or personal property held for department purposes;
- (c) The sale of licenses, permits, and tags required by this title;
- (d) Fees for informational materials published by the department;
- (e) Fees for personalized vehicle license plates as provided in chapter 46.16 RCW;
- (f) Articles or wildlife sold by the commission under this title;
- (g) Penalty assessments collected under RCW 77.21.050;
- (h) Compensation for wildlife losses or gifts or grants received under RCW 77.12.320; and
- (i) Fines, forfeitures, and costs collected under this title for violations of law or rules of the commission.

(2) Courts shall collect fines and forfeitures and deposit them within fifteen days after the end of each quarter in the state treasury. Except as provided in RCW 77.12.201, the treasurer shall credit fifty percent of these fines and forfeitures to the state game fund and shall return the remainder to the county in which it was collected.

(3) State and county officers receiving any moneys listed in subsection (1) of this section shall deposit them in the state treasury to be credited to the state game fund.

(4) The term "fines and forfeitures" includes amounts, by whatever name known, levied by courts for violations of this title or rules of the commission but does not include penalty assessments under RCW 77.21.050, or actual court costs. [1980 c 78 § 30; 1979 c 56 § 1; 1973 1st ex.s. c 200 § 12 (Referendum Bill No. 33); 1969 ex.s. c 199 § 33; 1955 c 36 § 77.12.170. Prior: 1947 c 275 § 27; Rem. Supp. 1947 § 5992–37.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.173 Recodified as RCW 77.21.050. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.12.175 Decodified. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.12.185 Publications—Authority to recover costs—Disposition of moneys. (Effective July 1, 1981.) The director may collect moneys to recover the reasonable costs of publication of informational materials by the department and shall deposit them in the state treasury to be credited to the state game fund. [1980 c 78 § 66; 1979 c 56 § 2. Formerly RCW 77.12.520.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.
Disposition of fees for publications: RCW 77.12.170.

77.12.190 Diversion of game fund moneys prohibited. (Effective July 1, 1981.) Moneys in the state game fund may be used only for the purposes of this title. [1980 c 78 § 34; 1955 c 36 § 77.12.190. Prior: 1947 c 275 § 28; Rem. Supp. 1947 § 5992–38.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.200 Acquisition of property. (Effective July 1, 1981.) The commission may acquire by gift, purchase, lease, or condemnation lands, buildings, waters, or other necessary property for purposes consistent with this title, together with rights of way for access to the property so acquired. Except to clear title and acquire access rights of way, the power of condemnation may be exercised by the commission only when an appropriation has been made by the legislature for the acquisition of a specific property. [1980 c 78 § 35; 1965 ex.s. c 97 § 1; 1955 c 36 § 77.12.200. Prior: 1953 c 65 § 1; 1947 c 275 § 29; Rem. Supp. 1947 § 5992–39.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.201 Counties may elect to receive an amount in lieu of taxes. (Effective July 1, 1981.) The legislative authority of a county may elect, by giving written notice to the director and the treasurer prior to January 1st of any year, to obtain for the following year an amount in lieu of real property taxes on game lands equal to that which would be paid on similar parcels of real property situated in the county. Upon the election, all fines and forfeitures received by the county during that year under RCW 77.12.170 shall be deposited in the state treasury to be credited to the state game fund. The election shall continue until the department is notified differently prior to January 1st of any year. [1980 c 78 § 36; 1977 ex.s. c 59 § 1; 1965 ex.s. c 97 § 2.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.203 In lieu payments authorized—Procedure—Game lands defined. (Effective July 1, 1981.)

Notwithstanding RCW 84.36.010 or other statutes to the contrary, the director shall pay on game lands in each county, if requested by an election under RCW 77.12.201, an amount in lieu of real property taxes equal to that paid on similar parcels of real property subject to real property taxes. This amount shall not be assessed or paid on department buildings, structures, facilities, game farms, fish hatcheries, tidelands, or public fishing areas of less than one hundred acres.

"Game lands," as used in this section and RCW 77.12.201, means those tracts one hundred acres or larger owned in fee by the department and used for wildlife habitat and public recreational purposes.

The director has the same rights of appeal and adjustment of taxes or assessments as do other owners of real property.

Upon election by the county legislative authority to receive an amount in lieu of real property taxes, the county assessor shall enter the property on the tax rolls and the department shall pay the amount due as others pay taxes on their real property in the county. [1980 c 78 § 37; 1965 ex.s. c 97 § 3.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.205 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.12.207 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.12.210 Department property—Management, sale. (Effective July 1, 1981.) The commission shall maintain and manage real or personal property owned, leased, or held by the department and shall control the construction of buildings, structures, and improvements in or on the property. The commission may adopt rules for the operation, maintenance, and use of and conduct on the property.

The commission may sell timber, gravel, sand, and other materials or products from real property held by the department. The commission may sell or lease the departments' real or personal property or grant concessions or rights of way for roads or utilities in the property.

If the commission determines that real or personal property held by the department cannot be used advantageously by the department, the commission may dispose of that property if it is in the public interest.

If the state acquired real property with use limited to specific purposes, the director may negotiate terms for the return of the property to the donor or grantor. Other real property shall be sold to the highest bidder at public auction. After appraisal, notice of the auction shall be published at least once a week for two successive weeks in a newspaper of general circulation within the county where the property is located at least twenty days prior to sale.

Proceeds from the sales shall be deposited in the state treasury to be credited to the state game fund. [1980 c 78 § 38; 1969 ex.s. c 73 § 1; 1955 c 36 § 77.12.210. Prior: 1947 c 275 § 30; Rem. Supp. 1947 § 5992-40.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.220 Acquisition or transfer of property. (Effective July 1, 1981.) For purposes of this title, the commission may make agreements to obtain real or personal property or to transfer or convey property held by the state to the United States or its agencies or instrumentalities, political subdivisions of this state, public service companies, or other persons, if in the judgment of the commission and the attorney general the transfer and conveyance is consistent with public interest.

If the commission agrees to a transfer or conveyance under this section or to a sale or return of real property under RCW 77.12.210, it shall certify, with the attorney general, to the governor that the agreement has been made. The certification shall describe the real property. The governor then may execute and the secretary of state attest and deliver to the appropriate entity or person the instrument necessary to fulfill the agreement. [1980 c 78 § 39; 1955 c 36 § 77.12.220. Prior: 1949 c 205 § 3; 1947 c 275 § 31; Rem. Supp. 1949 § 5992-41.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.230 Local assessments against department property. (Effective July 1, 1981.) The director may pay lawful local improvement district assessments for projects that may benefit wildlife or wildlife-oriented recreation made against lands held by the state for department purposes. The payments may be made from money appropriated from the state game fund to the department. [1980 c 78 § 40; 1955 c 36 § 77.12.230. Prior: 1947 c 275 § 32; Rem. Supp. 1947 § 5992-42.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.240 Authority to take wildlife—Disposition. (Effective July 1, 1981.) The director may authorize the removal or killing of wildlife that is destroying or injuring property, or when it is necessary for wildlife management or research.

The director or other employees of the department shall dispose of wildlife taken or possessed by them under this title in the manner determined by the director to be in the best interest of the state. Skins or furs shall be sold at public auction at a time and location determined by the director. Proceeds from the sales shall be deposited in the state treasury to be credited to the state game fund. [1980 c 78 § 41; 1955 c 36 § 77.12.240. Prior: 1947 c 275 § 33; Rem. Supp. 1947 § 5992-43.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.250 Entry upon property in course of duty. (Effective July 1, 1981.) The director, wildlife agents, ex officio wildlife agents, and department employees may

enter upon lands or waters and remain there while performing their duties without liability for trespass. [1980 c 78 § 42; 1955 c 36 § 77.12.250. Prior: 1947 c 275 § 34; Rem. Supp. 1947 § 5992-44.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.260 Agreements to prevent damage to private property. (Effective July 1, 1981.) The commission may make written agreements to prevent damage to private property by wildlife. The department may furnish money, material, or labor under these agreements. [1980 c 78 § 43; 1955 c 36 § 77.12.260. Prior: 1949 c 238 § 1; 1947 c 275 § 35; Rem. Supp. 1949 § 5992-45.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.265 Wildlife doing damage may be taken—Limitations. (Effective July 1, 1981.) The owner or tenant of real property may trap or kill on that property wild animals or wild birds, other than an endangered species, that is damaging crops, domestic animals, fowl, or other property. Except in emergency situations, deer, elk, and protected wildlife shall not be killed without a permit issued and conditioned by the director.

Wildlife trapped or killed under this section remains the property of the state, and the person trapping or killing the wildlife shall notify the department immediately. The commission may specify by rule the disposition of wildlife so taken.

For purposes of this section, "crop" means an agricultural or horticultural product growing or harvested and excludes wild shrubs and range land vegetation. [1980 c 78 § 91; 1955 c 36 § 77.16.230. Prior: 1949 c 238 § 2; 1947 c 275 § 62; Rem. Supp. 1949 § 5992-71. Formerly RCW 77.16.230.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.270 Claims for damages caused by deer or elk—Payments authorized, limitations. (Effective July 1, 1981.) The commission may compromise, adjust, settle, and pay claims for damages caused by deer or elk in accordance with RCW 77.12.280 through 77.12.300. Payments for claims shall not exceed one thousand dollars. The payment of a claim by the commission constitutes full and final payment for the claim. [1980 c 78 § 45; 1963 c 177 § 8; 1955 c 36 § 77.12.270. Prior: 1949 c 238 § 3; Rem. Supp. 1949 § 5992-45a.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.280 Claims for damages caused by deer or elk—Procedures—Arbitration—Awards. (Effective July 1, 1981.) (1) Claims under RCW 77.12.270 not exceeding one thousand dollars may be filed with the director of financial management if within one year of filing with the commission the claim is not settled and paid. Claims shall conform to the tort claim filing requirements in RCW 4.92.100 as now or hereafter amended. The director of financial management shall

recommend to the legislature whether the claim should be approved. If the legislature approves the claim, the department shall pay it from moneys appropriated for that purpose.

(2) If a claim for damages under RCW 77.12.270 has been refused or has not been settled and paid by the commission within one hundred twenty days of the filing of the claim, either the claimant or the commission may serve upon the other personally or by registered mail a notice of intent to arbitrate. The notice shall contain the name of an arbitrator. Within ten days of receiving the notice, the person served shall serve the name of an arbitrator personally or by registered mail upon the other party. The two arbitrators, within seven days of the naming of the second arbitrator, shall select a third arbitrator who shall not be an employee of the department or member of the commission. If the two arbitrators cannot agree upon a third arbitrator, either party may petition the superior court in the county in which the claim arose to select the third arbitrator. Upon receiving the petition, the court shall appoint a third arbitrator. Filing fees or court costs arising from the petition shall be shared equally by the claimant and the department.

(3) The award of the arbitrators is advisory only and shall be filed with the department within ninety days following the naming of the third arbitrator. Payment shall not be made by the commission until the arbitrators have made their advisory award. [1980 c 78 § 46; 1979 c 151 § 176; 1977 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.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.290 Claims for damages caused by deer or elk—Notice required—Exclusion. (Effective July 1, 1981.) Claims for damages under RCW 77.12.270 shall be filed in writing with the commission in its office within ninety days following the discovery of the claimed damage. Failure to file the claim within the ninety-day period shall bar payment of damages. Payments shall not be made for damages occurring on lands leased by the claimant from a public agency. [1980 c 78 § 47; 1963 c 177 § 9; 1957 c 177 § 2; 1955 c 36 § 77.12.290. Prior: 1953 c 127 § 1; 1949 c 238 § 5; Rem. Supp. 1949 § 5992-45c.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.300 Rules as to claims for damages—Exclusions. (Effective July 1, 1981.) The commission may adopt rules requiring and prescribing the form of affidavits to be furnished in proof of claims and specifying the time for examining and appraising the damages. The commission may refuse to consider and pay claims of persons who have posted the property on which the claimed damages occurred against hunting during the season prior to the occurrence of the damages. [1980 c 78 § 48; 1957 c 177 § 3; 1955 c 36 § 77.12.300. Prior: 1949 c 238 § 6; Rem. Supp. 1949 § 5992-45d.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.310 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.12.315 Dogs harassing deer and elk—Declaration of emergency—Taking dogs into custody or destroying—Immunity. (Effective July 1, 1981.) If the director determines that a severe problem exists in an area of the state because deer and elk are being pursued, harassed, attacked or killed by dogs, the commission may declare by emergency rule that an emergency exists and specify the area where it is lawful for wildlife agents to take into custody or destroy the dogs if necessary. Wildlife agents who take into custody or destroy a dog pursuant to this section are immune from civil or criminal liability arising from their actions. [1980 c 78 § 49; 1971 ex.s. c 183 § 1.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.320 Agreements for purposes related to wildlife—Acceptance of compensation, gifts, grants. (Effective July 1, 1981.) (1) The commission may make agreements with persons, political subdivisions of this state, or the United States or its agencies or instrumentalities, regarding wildlife-oriented recreation and the propagation, protection, conservation, and control of wildlife.

(2) The commission may make written agreements with the owners or lessees of real or personal property to provide for the use of the property for wildlife-oriented recreation. The commission may adopt rules governing the conduct of persons in or on the real property.

(3) The commission may accept compensation for wildlife losses or gifts or grants of personal property for use by the department. [1980 c 78 § 50; 1975 1st ex.s. c 207 § 1; 1974 ex.s. c 67 § 1; 1955 c 36 § 77.12.320. Prior: 1947 c 275 § 37; Rem. Supp. 1947 § 5992-47.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.323 Special wildlife account—Investments. (Effective July 1, 1981.) (1) There is established in the state game fund a special wildlife account. Moneys received under RCW 77.12.320 as now or hereafter amended as compensation for wildlife losses shall be deposited in the state treasury to be credited to the special wildlife account.

(2) The commission may advise the state treasurer and the state finance committee of a surplus in the special wildlife account above the current needs. The state finance committee may invest and reinvest the surplus, as the commission deems appropriate, in an investment authorized by RCW 43.84.150 or in securities issued by the United States government as defined by RCW 43.84.080 (1) and (4). Income received from the investments shall be deposited to the credit of the special

wildlife account. [1980 c 78 § 51; 1975 1st ex.s. c 207 § 2.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.325 Cooperation with Oregon to assure yields of Columbia river wildlife. (Effective July 1, 1981.) The commission may cooperate with the Oregon fish and wildlife commission in the adoption of rules to assure an annual yield of wildlife on the Columbia river and to prevent the taking of wildlife at places or times that might endanger wildlife. [1980 c 78 § 52; 1959 c 315 § 2.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.330 Exclusive fishing waters for youths. (Effective July 1, 1981.) The commission may establish by rule exclusive fishing waters for minors within specified ages. [1980 c 78 § 53; 1955 c 36 § 77.12.330. Prior: 1947 c 275 § 38; Rem. Supp. 1947 § 5992-48.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.340 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.12.350 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.12.360 Withdrawal of state land from lease—Compensation. (Effective July 1, 1981.) Upon written request of the department, the department of natural resources may withdraw from lease state-owned lands described in the request. The request shall bear the endorsement of the county legislative authority if the lands were acquired under RCW 76.12.030 or 76.12.080. Withdrawals shall conform to the state outdoor recreation plan. If the lands are held for the benefit of the common school fund or another fund, the department shall pay compensation equal to the lease value of the lands to the appropriate fund. [1980 c 78 § 54; 1969 ex.s. c 129 § 3; 1955 c 36 § 77.12.360. Prior: 1947 c 130 § 1; Rem. Supp. 1947 § 8136-10.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.370 Withdrawal of state land from lease—County procedures, approval, hearing. (Effective July 1, 1981.) Prior to the forwarding of a request needing endorsement under RCW 77.12.360, the commission shall present the request to the legislative authority of the county in which the lands are located for its approval. The legislative authority, before acting on the request, may call a public hearing. The hearing shall take place within thirty days after presentation of the request to the legislative authority.

The commission shall publish notice of the public hearing called by the legislative authority in a newspaper

of general circulation within the county at least once a week for two successive weeks prior to the hearing. The notice shall contain a copy of the request and the time and place of the hearing.

The chairman of the county legislative authority shall preside at the public hearing. The proceedings shall be informal and all persons shall have a reasonable opportunity to be heard.

Within ten days after the hearing, the county legislative authority shall endorse its decision on the request for withdrawal. The decision is final and not subject to appeal. [1980 c 78 § 55; 1955 c 36 § 77.12.370. Prior: 1947 c 130 § 2; Rem. Supp. 1947 § 8136-11.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.380 Withdrawal of state land from lease—Actions by commissioner of public lands. (Effective July 1, 1981.) Upon receipt of a request under RCW 77.12.360, the commissioner of public lands shall determine if the withdrawal would benefit the people of the state. If the withdrawal would be beneficial, the commissioner shall have the lands appraised for their lease value. Before withdrawal, the department shall transmit to the commissioner a voucher authorizing payment from the state game fund in favor of the fund for which the lands are held. The payment shall equal the amount of the lease value for the duration of the withdrawal. [1980 c 78 § 56; 1955 c 36 § 77.12.380. Prior: 1947 c 130 § 3; Rem. Supp. 1947 § 8136-12.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.390 Withdrawal of state land from lease—Payment. (Effective July 1, 1981.) Upon receipt of a voucher under RCW 77.12.380, the commissioner of public lands shall withdraw the lands from lease. The commissioner shall forward the voucher to the state treasurer, who shall draw a warrant against the state game fund in favor of the fund for which the withdrawn lands are held. [1980 c 78 § 57; 1973 c 106 § 35; 1955 c 36 § 77.12.390. Prior: 1947 c 130 § 4; Rem. Supp. 1947 § 8136-13.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.400 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.12.410 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.12.420 Improvement of conditions for growth of game fish. (Effective July 1, 1981.) The commission may spend moneys to improve natural growing conditions for fish by constructing fishways, installing screens, removing obstructions to migratory fish, and eradicating undesirable fish. The commission may enter into cooperative agreements with state, county, municipal,

and federal agencies, and with private individuals for these purposes. [1980 c 78 § 59; 1955 c 36 § 77.12.420. Prior: 1947 c 127 § 1; Rem. Supp. 1947 § 5944-1.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.425 Director may modify inadequate fishways and protective devices. (Effective July 1, 1981.) The director may authorize removal, relocation, reconstruction, or other modification of an inadequate fishway or fish protective device required by RCW 77.16.210 and 77.16.220 which device was in existence on September 1, 1963, without cost to the owner for materials and labor. The modification may not materially alter the amount of water flowing through the fishway or fish protective device. Following modification, the fishway or fish protective device shall be maintained at the expense of the person or governmental agency owning the obstruction or water diversion device. [1980 c 78 § 90; 1963 c 152 § 1. Formerly RCW 77.16.221.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Director of fisheries may modify, etc., inadequate fishways and protective devices: RCW 75.20.061.

77.12.430 Wildlife restoration—Federal act. (Effective July 1, 1981.) The state assents to the act of congress entitled: "An Act to provide that the United States shall aid the states in wildlife restoration projects, and for other purposes," (50 Stat. 917; 16 U.S.C. Sec. 669). The department shall establish and conduct cooperative wildlife restoration projects, as defined in the act, and shall comply with the act and related rules adopted by the secretary of agriculture. [1980 c 78 § 60; 1955 c 36 § 77.12.430. Prior: 1939 c 140 § 1; RRS § 5855-12.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.440 Fish restoration and management projects—Federal act. (Effective July 1, 1981.) The state assents to the act of congress entitled: "An Act to provide that the United States shall aid the states in fish restoration and management projects, and for other purposes," (64 Stat. 430; 16 U.S.C. Sec. 777). The department shall establish, conduct, and maintain fish restoration and management projects, as defined in the act, and shall comply with the act and related rules adopted by the secretary of the interior. [1980 c 78 § 61; 1955 c 36 § 77.12.440. Prior: 1951 c 124 § 1.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.450 Snake river boundary—Cooperation with Idaho for adoption and enforcement of rules regarding wildlife. (Effective July 1, 1981.) The commission may cooperate with the Idaho fish and game commission in the adoption and enforcement of rules regarding wildlife on that portion of the Snake river forming the boundary between Washington and Idaho. [1980 c 78 § 62; 1967 c 62 § 1.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.460 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.12.470 Snake river boundary—Concurrent jurisdiction of Idaho and Washington courts and law enforcement officers. (Effective July 1, 1981.) To enforce RCW 77.12.480 and 77.12.490, courts in the counties contiguous to the boundary waters, wildlife agents, and ex officio wildlife agents have jurisdiction over the boundary waters to the furthestmost shoreline. This jurisdiction is concurrent with the courts and law enforcement officers of Idaho. [1980 c 78 § 63; 1967 c 62 § 3.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.480 Snake river boundary—Honoring licenses to take wildlife of either state. (Effective July 1, 1981.) The taking of wildlife from the boundary waters or islands of the Snake river shall be in accordance with the wildlife laws of the respective states. Wildlife agents and ex officio wildlife agents shall honor the license of either state and the right of the holder to take wildlife from the boundary waters and islands in accordance with the laws of the state issuing the license. [1980 c 78 § 64; 1967 c 62 § 4.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.490 Snake river boundary—Purpose—Restrictions. (Effective July 1, 1981.) The purpose of RCW 77.12.450 through 77.12.490 is to avoid the conflict, confusion, and difficulty of locating the state boundary in or on the boundary waters and islands of the Snake river. These sections do not allow the holder of a Washington license to fish or hunt on the shoreline, sloughs, or tributaries on the Idaho side, nor allow the holder of an Idaho license to fish or hunt on the shoreline, sloughs, or tributaries on the Washington side. [1980 c 78 § 65; 1967 c 62 § 5.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.500 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.12.510 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.12.520 Recodified as RCW 77.12.185. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.12.530 Hunting and fishing contests—Field trials for dogs—Rules—Limitation. (Effective July 1, 1981.) The commission shall adopt rules governing the time, place, and manner of holding hunting and fishing

contests and competitive field trials involving live wildlife for hunting dogs. The commission shall prohibit contests and field trials that are not in the best interests of wildlife. [1980 c 78 § 67.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Contests and field trials: RCW 77.16.010.

77.12.540 Public shooting grounds—Effect of filing—Use for booming. (Effective July 1, 1981.) Upon filing a certificate with the commissioner of public lands that shows that lands will be used for public shooting grounds by the department, the lands shall be withdrawn from sale or lease and then may be used as public shooting grounds under control of the department. The commissioner of public lands may also use the lands for booming purposes. [1980 c 78 § 128; 1955 c 36 § 77.40.080. Prior: 1945 c 179 § 2; Rem. Supp. 1945 § 7993-5b. Formerly RCW 77.40.080.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.550 Tidelands used as public shooting grounds—Diversion. (Effective July 1, 1981.) Tidelands granted to the department to be used as public shooting grounds shall revert to the state if used for another purpose. The department shall certify the reversion to the commissioner of public lands who shall then supervise and control the lands as provided in Title 79 RCW. [1980 c 78 § 126; 1955 c 36 § 77.40.050. Prior: 1941 c 190 § 3; Rem. Supp. 1941 § 7993-8. Formerly RCW 77.40.050.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.560 Tidelands used as public shooting grounds—Rules. (Effective July 1, 1981.) The commission may adopt rules regarding the use of the tidelands as shooting grounds. [1980 c 78 § 127; 1955 c 36 § 77.40.060. Prior: 1941 c 190 § 4; Rem. Supp. 1941 § 7993-9. Formerly RCW 77.40.060.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.570 Game farms—Rules for operation. (Effective July 1, 1981.) The commission shall adopt rules specifying the procedures, qualifications, and conditions for issuing a game farm license and governing the operation of game farms. [1980 c 78 § 98; 1975 1st ex.s. c 15 § 2; 1970 ex.s. c 29 § 14; 1955 c 36 § 77.28.020. Prior: 1947 c 275 § 82; Rem. Supp. 1947 § 5992-91. Formerly RCW 77.28.020.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.580 Game farms—Authority to dispose of eggs. (Effective July 1, 1981.) A licensed game farmer may purchase, sell, give away, or dispose of the eggs of game birds or game fish lawfully possessed as provided by rule of the commission. [1980 c 78 § 99; 1955 c 36 §

77.28.070. Prior: 1947 c 275 § 87; Rem. Supp. 1947 § 5992-96. Formerly RCW 77.28.070.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.590 Game farms—Tagging of products. (Effective July 1, 1981.) Wildlife given away, sold, or transferred by a licensed game farmer shall have attached to each wildlife member, package, or container, a tag, seal, or invoice as required by the commission. [1980 c 78 § 100; 1955 c 36 § 77.28.080. Prior: 1947 c 275 § 88; Rem. Supp. 1947 § 5992-97. Formerly RCW 77.28.080.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.600 Game farms—Shipping of wildlife. (Effective July 1, 1981.) A common carrier may transport wildlife shipped by a licensed game farmer if the wildlife is tagged, sealed, or invoiced as provided in RCW 77.12.590. Packages containing wildlife shall have affixed to them tags or labels showing the name of the licensee and the consignee. [1980 c 78 § 101; 1955 c 36 § 77.28.090. Prior: 1947 c 275 § 89; Rem. Supp. 1947 § 5992-98. Formerly RCW 77.28.090.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Chapter 77.16

PROHIBITED ACTS AND PENALTIES

Sections

- 77.16.010 Hunting and fishing contests—Field trials for dogs—Permit—Rules. (Effective July 1, 1981.)
- 77.16.020 Violations—Closed season, waters, areas—Bag limits—Special licenses. (Effective July 1, 1981.)
- 77.16.030 Recodified as RCW 77.12.105. (Effective July 1, 1981.)
- 77.16.040 Trafficking in wildlife or articles made from endangered species prohibited—Exception—Common and contract carriers. (Effective July 1, 1981.)
- 77.16.050 Spotlighting big game—Prima facie evidence. (Effective July 1, 1981.)
- 77.16.060 Using nets, unauthorized devices—Returning game fish—Use of landing nets. (Effective July 1, 1981.)
- 77.16.070 Hunting while intoxicated. (Effective July 1, 1981.)
- 77.16.080 Laying out poison, etc., endangering wildlife—Exception. (Effective July 1, 1981.)
- 77.16.090 Waste of wildlife. (Effective July 1, 1981.)
- 77.16.095 Mutilation of wildlife, hampering identification. (Effective July 1, 1981.)
- 77.16.100 Use of dogs—Public nuisance, when. (Effective July 1, 1981.)
- 77.16.110 Weapons, traps, and dogs on game reserves. (Effective July 1, 1981.)
- 77.16.120 Taking of protected wildlife—Destruction of nests or eggs. (Effective July 1, 1981.)
- 77.16.130 Resisting or obstructing officers. (Effective July 1, 1981.)
- 77.16.140 Repealed. (Effective July 1, 1981.)
- 77.16.150 Releasing wildlife—Planting aquatic plants, seeds. (Effective July 1, 1981.)
- 77.16.157 Repealed. (Effective July 1, 1981.)
- 77.16.158 Repealed. (Effective July 1, 1981.)
- 77.16.160 Damaging or interfering with fish ladders, guards, screens, etc. (Effective July 1, 1981.)

- 77.16.170 Interfering with another person's traps—Identification of traps. (Effective July 1, 1981.)
- 77.16.180 Damaging signs. (Effective July 1, 1981.)
- 77.16.190 Unlawful posting of land. (Effective July 1, 1981.)
- 77.16.200 Repealed. (Effective July 1, 1981.)
- 77.16.210 Fishways to be provided and maintained. (Effective July 1, 1981.)
- 77.16.220 Diversion of water—Screen, bypass required. (Effective July 1, 1981.)
- 77.16.221 Recodified as RCW 77.12.425. (Effective July 1, 1981.)
- 77.16.230 Recodified as RCW 77.12.265. (Effective July 1, 1981.)
- 77.16.240 Recodified as RCW 77.21.010. (Effective July 1, 1981.)
- 77.16.250 Loaded firearms in vehicles. (Effective July 1, 1981.)
- 77.16.260 Shooting firearm from public highway. (Effective July 1, 1981.)
- 77.16.270 Repealed. (Effective July 1, 1981.)
- 77.16.280 Repealed. (Effective July 1, 1981.)
- 77.16.290 Law enforcement officers, exemption. (Effective July 1, 1981.)
- 77.16.300 Repealed. (Effective July 1, 1981.)
- 77.16.310 Unlawful purchase or possession of license, permit, or tag. (Effective July 1, 1981.)
- 77.16.320 Albino animals—Penalties for taking, dealing.

77.16.010 Hunting and fishing contests—Field trials for dogs—Permit—Rules. (Effective July 1, 1981.) It is unlawful to promote, conduct, hold, or sponsor a contest for the hunting or fishing of wildlife or a competitive field trial involving live wildlife for hunting dogs without first obtaining a hunting or fishing contest permit. Contests and field trials shall be held in accordance with rules of the commission. [1980 c 78 § 69; 1955 c 36 § 77.16.010. Prior: 1947 c 275 § 39; Rem. Supp. 1947 § 5992-49.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Contests and field trials: RCW 77.12.530, 77.32.310.

77.16.020 Violations—Closed season, waters, areas—Bag limits—Special licenses. (Effective July 1, 1981.) (1) It is unlawful to hunt, fish, possess, or control a species of game bird, game animal, or game fish during the closed season for that species except as provided in RCW 77.16.030.

(2) It is unlawful to kill, take, catch, possess, or control these species in excess of the number fixed as the bag limit for each species.

(3) It is unlawful to hunt within a game reserve or to fish for game fish within closed waters.

(4) It is unlawful to hunt wild birds or wild animals within a closed area except as authorized by rule of the commission.

(5) It is unlawful to hunt or fish for wildlife, practice taxidermy for profit, deal in raw furs for profit, act as a fishing guide, or operate a game farm, without having in possession the license, permit, or tag required by chapter 77.32 RCW or rule of the commission. The activities described in this subsection shall be conducted in accordance with rules of the commission. [1980 c 78 § 70; 1977 c 44 § 1; 1955 c 36 § 77.16.020. Prior: 1947 c 275 § 41; Rem. Supp. 1947 § 5992-50.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.16.030 Recodified as RCW 77.12.105. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.16.040 Trafficking in wildlife or articles made from endangered species prohibited—Exception—Common and contract carriers. (Effective July 1, 1981.) Except as authorized by law or rule of the commission, it is unlawful to bring into this state, offer for sale, sell, possess, exchange, buy, transport, or ship wildlife or articles made from an endangered species. It is unlawful for a common or contract carrier knowingly to ship or receive for shipment wildlife or articles made from an endangered species. [1980 c 78 § 72; 1971 ex.s. c 166 § 4; 1961 c 75 § 1; 1955 c 36 § 77.16.040. Prior: 1947 c 275 § 43; Rem. Supp. 1947 § 5992–52.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.16.050 Spotighting big game—Prima facie evidence. (Effective July 1, 1981.) It is unlawful to hunt big game with a spotlight or other artificial light. It is prima facie evidence of a violation of this section to be found with a spotlight or other artificial light and with a firearm, bow and arrow, or crossbow, after sunset, in a place where big game may reasonably be expected. [1980 c 78 § 73; 1955 c 36 § 77.16.050. Prior: 1947 c 275 § 44; Rem. Supp. 1947 § 5992–53.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.16.060 Using nets, unauthorized devices—Returning game fish—Use of landing nets. (Effective July 1, 1981.) It is unlawful to lay, set, or use a net or other device capable of taking game fish in the waters of this state except as authorized by rule of the commission or director of fisheries. Game fish taken incidental to a lawful season established by the director of fisheries shall be returned immediately to the water.

A landing net may be used to land fish otherwise legally hooked. [1980 c 78 § 74; 1955 c 36 § 77.16.060. Prior: 1947 c 275 § 45; Rem. Supp. 1947 § 5992–54.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.16.070 Hunting while intoxicated. (Effective July 1, 1981.) It is unlawful to hunt while under the influence of intoxicating liquor or drugs. [1980 c 78 § 75; 1955 c 36 § 77.16.070. Prior: 1947 c 275 § 45a; Rem. Supp. 1947 § 5992–55.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.16.080 Laying out poison, etc., endangering wildlife—Exception. (Effective July 1, 1981.) It is unlawful to lay, set, or use a drug, explosive, poison, or other deleterious substance that may endanger, injure, or kill wildlife except as authorized by law or rule of the commission. [1980 c 78 § 76; 1955 c 36 § 77.16.080. Prior: 1947 c 275 § 46; Rem. Supp. 1947 § 5992–56.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.16.090 Waste of wildlife. (Effective July 1, 1981.) It is unlawful for a person who kills or possesses game animals, game birds, or game fish to allow them to needlessly go to waste. [1980 c 78 § 77; 1955 c 36 § 77.16.090. Prior: 1947 c 275 § 47; Rem. Supp. 1947 § 5992–57.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.16.095 Mutilation of wildlife, hampering identification. (Effective July 1, 1981.) It is unlawful to mutilate wildlife so that the size, species, or sex cannot be determined visually in the field or while being transported. The commission may prescribe specific criteria for field identification to satisfy this section. [1980 c 78 § 78.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.16.100 Use of dogs—Public nuisance, when. (Effective July 1, 1981.) It is unlawful for the owner or a person harboring a dog to directly or negligently permit the dog to pursue or injure deer or elk or to accompany a person who is hunting deer or elk.

During the closed season for a species of game animal or game bird, a dog found pursuing that species, molesting its young, or destroying the nest of a game bird may be declared a public nuisance. [1980 c 78 § 79; 1977 ex.s. c 275 § 1; 1955 c 36 § 77.16.100. Prior: 1947 c 275 § 48; Rem. Supp. 1947 § 5992–58.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.16.110 Weapons, traps, and dogs on game reserves. (Effective July 1, 1981.) It is unlawful to carry firearms, other hunting weapons, or traps or to allow directly or negligently a dog upon a game reserve, except on public highways or as authorized by rule of the commission. [1980 c 78 § 80; 1955 c 36 § 77.16.110. Prior: 1947 c 275 § 50; Rem. Supp. 1947 § 5992–59.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.16.120 Taking of protected wildlife—Destruction of nests or eggs. (Effective July 1, 1981.) Except as authorized by rule of the commission, it is unlawful to hunt, fish for, possess, or control protected wildlife, or endangered species or to destroy or possess the nests or eggs of game birds or protected wildlife. [1980 c 78 § 81; 1955 c 36 § 77.16.120. Prior: 1947 c 275 § 51; Rem. Supp. 1947 § 5992–60.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.16.130 Resisting or obstructing officers. (Effective July 1, 1981.) It is unlawful to resist or obstruct wildlife agents or ex officio wildlife agents in the discharge of their duties while enforcing the law or rules of

the commission. [1980 c 78 § 82; 1955 c 36 § 77.16.130. Prior: 1947 c 275 § 52; Rem. Supp. 1947 § 5992-61.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.16.140 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.16.150 Releasing wildlife—Planting aquatic plants, seeds. (Effective July 1, 1981.) Except as authorized by rule of the commission, it is unlawful to release wildlife or to plant aquatic plants or their seeds within the state. [1980 c 78 § 83; 1955 c 36 § 77.16.150. Prior: 1951 c 126 § 1; 1947 c 275 § 54; Rem. Supp. 1947 § 5992-63.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.16.157 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.16.158 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.16.160 Damaging or interfering with fish ladders, guards, screens, etc. (Effective July 1, 1981.) It is unlawful to damage or interfere with a fish ladder, guard, screen, stop, protective device, bypass, or trap operated by the department. [1980 c 78 § 84; 1955 c 36 § 77.16.160. Prior: 1947 c 275 § 55; Rem. Supp. 1947 § 5992-64.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.16.170 Interfering with another person's traps—Identification of traps. (Effective July 1, 1981.) It is unlawful to take a wild animal from another person's trap without permission, or to spring, pull up, damage, possess, or destroy the trap.

Trappers shall attach to the chain of their traps or devices a legible metal tag with the name and address of the trapper in English letters not less than one-eighth inch in height. [1980 c 78 § 85; 1955 c 36 § 77.16.170. Prior: 1947 c 275 § 56; Rem. Supp. 1947 § 5992-65.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.16.180 Damaging signs. (Effective July 1, 1981.) It is unlawful to remove, possess, or damage printed matter or signs placed by authority of the commission. [1980 c 78 § 86; 1955 c 36 § 77.16.180. Prior: 1947 c 275 § 57; Rem. Supp. 1947 § 5992-66.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.16.190 Unlawful posting of land. (Effective July 1, 1981.) It is unlawful for a person to wilfully post signs or warn against or otherwise prevent hunting or fishing

on any land not owned or leased by that person. [1980 c 78 § 87; 1955 c 36 § 77.16.190. Prior: 1947 c 275 § 58; Rem. Supp. 1947 § 5992-67.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.16.200 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.16.210 Fishways to be provided and maintained. (Effective July 1, 1981.) Persons or government agencies managing, controlling, or owning a dam or other obstruction across a river or stream shall construct, maintain, and repair durable fishways and fish protective devices that allow the free passage of game fish around the obstruction. The fishways and fish protective devices shall be provided with sufficient water to insure the free passage of fish. [1980 c 78 § 88; 1955 c 36 § 77.16.210. Prior: 1947 c 275 § 60; Rem. Supp. 1947 § 5992-69.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.16.220 Diversion of water—Screen, bypass required. (Effective July 1, 1981.) It is unlawful to divert water from a lake, river, or stream containing game fish unless the water diversion device is equipped at or near its intake with a fish guard or screen to prevent the passage of game fish into the device and, if necessary, with a means of returning game fish from immediately in front of the fish guard or screen to the waters of origin. A person who is now otherwise lawfully diverting water from a lake, river or stream shall not be deemed guilty of a violation of this section.

Plans for the fish guard, screen, and bypass shall be approved by the director prior to construction. The installation shall be approved by the director prior to the diversion of water.

The director may close a water diversion device operated in violation of this section and keep it closed until it is properly equipped with a fish guard, screen, or bypass. [1980 c 78 § 89; 1955 c 36 § 77.16.220. Prior: 1947 c 275 § 61; Rem. Supp. 1947 § 5992-70.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.16.221 Recodified as RCW 77.12.425. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.16.230 Recodified as RCW 77.12.265. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.16.240 Recodified as RCW 77.21.010. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.16.250 Loaded firearms in vehicles. (Effective July 1, 1981.) Except as provided in RCW 77.16.290, it

is unlawful to carry, transport, convey, possess, or control in or on a motor vehicle a shotgun or rifle containing shells or cartridges in the magazine or chamber, or a muzzle-loading firearm loaded and capped or primed. [1980 c 78 § 93; 1955 c 36 § 77.16.250. Prior: 1947 c 126 § 1; Rem. Supp. 1947 § 2545-1.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.16.260 Shooting firearm from public highway. (Effective July 1, 1981.) Except as provided in RCW 77.16.290, it is unlawful to shoot a firearm from, across, or along the maintained portion of a public highway. [1980 c 78 § 94; 1955 c 85 § 1; 1955 c 36 § 77.16.260. Prior: 1947 c 126 § 2; Rem. Supp. 1947 § 2545-2.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.16.270 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.16.280 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.16.290 Law enforcement officers, exemption. (Effective July 1, 1981.) While on duty within their respective jurisdictions, law enforcement officers authorized to carry firearms are exempt from RCW 77.16.250 and 77.16.260. [1980 c 78 § 95; 1955 c 36 § 77.16.290. Prior: 1947 c 126 § 5; Rem. Supp. 1947 § 2545-5.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.16.300 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.16.310 Unlawful purchase or possession of license, permit, or tag. (Effective July 1, 1981.) It is unlawful to purchase, obtain, or possess or to attempt to purchase or obtain a license, permit, or tag required by this title:

(1) By using false information; or

(2) After notice of the revocation or forfeiture of an existing license, permit, or tag, except that a person may purchase a license that does not grant the privilege that was revoked; or

(3) In excess of one license, permit, or tag for a license year except as authorized by RCW 77.32.256 or other law or rule of the commission. [1980 c 78 § 125; 1979 ex.s. c 127 § 1. Formerly RCW 77.32.300.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.16.320 Albino animals—Penalties for taking, dealing. Except as authorized by permit or license issued by the director, it is unlawful for a person to hunt, trap, or have in his possession for sale or with intent to sell, or

to expose or offer for sale or to sell or to barter for, or to exchange, or to buy, or to have in his possession with intent to ship, or to ship, any albino wild animal or any part thereof.

A person violating this section is guilty of a gross misdemeanor and upon conviction thereof 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. [1980 c 44 § 1.]

Chapter 77.20

BEAVER

Sections

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|-----------|--|
| 77.20.010 | Repealed. (Effective July 1, 1981.) |
| 77.20.015 | Licensed residents may take beaver. |
| 77.20.015 | Licensed residents may take—Beaver tags required, fee, style, duration. (Repealed) |
| 77.20.016 | Repealed. (Effective July 1, 1981.) |
| 77.20.020 | Repealed. (Effective July 1, 1981.) |
| 77.20.030 | Repealed. (Effective July 1, 1981.) |
| 77.20.040 | Repealed. (Effective July 1, 1981.) |
| 77.20.045 | Repealed. (Effective July 1, 1981.) |
| 77.20.050 | Repealed. (Effective July 1, 1981.) |
| 77.20.060 | Repealed. (Effective July 1, 1981.) |

77.20.010 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.20.015 Licensed residents may take beaver. It shall be lawful for any resident, licensed under RCW 77.32.191, to trap, hunt, or kill beaver for their skins in such areas and at such times as the commission by rule or regulation may permit. [1980 c 24 § 1; 1975 1st ex.s. c 15 § 1; 1963 c 177 § 10.]

Reviser's note: RCW 77.20.015 was also repealed by 1980 c 78 § 140, effective July 1, 1981, without reference to its amendment by 1980 c 24 § 1.

77.20.015 Licensed residents may take—Beaver tags required, fee, style, duration. [1975 1st ex.s. c 15 § 1; 1963 c 177 § 10.] Repealed by 1980 c 78 § 140, effective July 1, 1981.

Reviser's note: This section was also amended by 1980 c 24 § 1, without reference to this repeal. For rule of construction, see RCW 1.12.025.

77.20.016 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.20.020 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.20.030 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.20.040 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.20.045 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.20.050 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.20.060 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 77.21

PENALTIES—PROCEEDINGS

Sections

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| 77.21.010 | Penalties—Jurisdiction of courts. (Effective July 1, 1981.) |
| 77.21.020 | Revocation of hunting license for big game violation—Subsequent issuance—Appeal. (Effective July 1, 1981.) |
| 77.21.030 | Revocation for shooting person or livestock—Subsequent issuance. (Effective July 1, 1981.) |
| 77.21.040 | Disposition of forfeited wildlife and articles. (Effective July 1, 1981.) |
| 77.21.050 | Penalty assessments. (Effective July 1, 1981.) |
| 77.21.060 | Forfeiture of license by court—When optional, mandatory—Subsequent issuance. (Effective July 1, 1981.) |

77.21.010 Penalties—Jurisdiction of courts. (Effective July 1, 1981.) (1) A person violating RCW 77.16.040, 77.16.050, 77.16.060, 77.16.080, 77.16.210, or 77.16.220 or of a violation of RCW 77.16.020, 77.16.120, or 77.16.310 involving big game or an endangered species 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 the fine and imprisonment.

(2) A person violating or failing to comply with this title or a rule of the commission for which no penalty is otherwise provided is guilty of a misdemeanor and shall be punished for each offense by a fine of not less than twenty-five dollars or by imprisonment for not more than ninety days in the county jail or by both the fine and imprisonment.

(3) Persons convicted of a violation shall pay the costs of prosecution and the penalty assessment in addition to the fine or imprisonment.

(4) The unlawful killing, taking, or possession of each wildlife member constitutes a separate offense.

(5) District courts have jurisdiction concurrent with the superior courts of misdemeanors and gross misdemeanors committed in violation of this title or rules of the commission and may impose the punishment provided for these offenses. [1980 c 78 § 92; 1955 c 36 § 77.16.240. Prior: 1947 c 275 § 63; Rem. Supp. 1947 § 5992–72. Formerly RCW 77.16.240.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.21.020 Revocation of hunting license for big game violation—Subsequent issuance—Appeal. (Effective July 1, 1981.) In addition to other penalties provided by law, the director shall revoke the hunting license of a person who is convicted of a violation of RCW 77.16.020 involving big game or RCW 77.16.050. Forfeiture of bail twice during a five-year period for these violations constitutes the basis for a revocation under this section.

A hunting license shall not be issued to the person for two years from the revocation unless the commission authorizes the issuance.

A person who has had a license revoked or has been denied issuance pursuant to this section or RCW 77.21.030, may appeal the decision as provided in chapter 34.04 RCW. [1980 c 78 § 124; 1975 1st ex.s. c 6 § 1. Formerly RCW 77.32.290.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.21.030 Revocation for shooting person or livestock—Subsequent issuance. (Effective July 1, 1981.) The director shall revoke the hunting license of a person who shoots another person or domestic livestock while hunting. A hunting license shall not be issued to that person unless the commission authorizes the issuance of a license, and damages caused by the wrongful shooting have been paid. [1980 c 78 § 123; 1955 c 36 § 77.32.280. Prior: 1949 c 44 § 1; Rem. Supp. 1949 § 5992–124a. Formerly RCW 77.32.280.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.21.040 Disposition of forfeited wildlife and articles. (Effective July 1, 1981.) (1) In addition to other penalties provided by law, a court may forfeit for the use of the commission wildlife seized under this title and proven, in either a criminal or civil action, to have been unlawfully taken, killed, transported, or possessed and articles or devices seized under this title and proven, in either a criminal or civil action, to have been unlawfully used or held with intent to unlawfully use. Unless forfeited by the court, the department shall return an item seized under this title to its owner after the completion of the case and all fines have been paid. If the owner of a seized item cannot be found, the court may forfeit that item after summons has been served by publication as in civil actions and a hearing has been held.

(2) Wildlife unlawfully taken or possessed remains the property of the state.

(3) The commission may sell articles or devices seized and forfeited under this title by the court at public auction. The time, place, and manner of holding the sale is within the discretion of the commission. The director shall publish notice of the sale once a week for at least two consecutive weeks prior to the sale in at least one newspaper of general circulation in the county in which the sale is to be held. Proceeds from the sales shall be deposited in the state treasury to be credited to the state game fund. [1980 c 78 § 25; 1955 c 36 § 77.12.110.]

Prior: 1947 c 275 § 21; Rem. Supp. 1947 § 5992-31. Formerly RCW 77.12.110.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.21.050 Penalty assessments. (Effective July 1, 1981.) The court shall levy and collect a penalty assessment of five dollars for every twenty dollars or fraction thereof, imposed and collected by the court as a fine or forfeiture of bail for a violation of this title or rules of the commission. Where multiple violations are involved, the penalty assessment is based upon the total fine or bail forfeited. When a fine is suspended, the court shall reduce the penalty assessment in proportion to the suspension, except that it shall not be reduced to less than five dollars.

If bail is forfeited or a fine imposed, the court shall collect the penalty assessment and deposit it within fifteen days after the end of each quarter in the state treasury to be credited to the state game fund. [1980 c 78 § 31; 1975 c 57 § 1. Formerly RCW 77.12.173.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.21.060 Forfeiture of license by court—When optional, mandatory—Subsequent issuance. (Effective July 1, 1981.) Upon conviction of a violation of this title or rule of the commission, the court may forfeit a license, in addition to other penalties provided by law. Upon subsequent conviction, the forfeiture of the license is mandatory. The commission may prohibit by rule issuance of a license to a person convicted two or more times or prescribe the conditions for subsequent issuance of a license. [1980 c 78 § 122; 1955 c 36 § 77.32.260. Prior: 1947 c 275 § 115; Rem. Supp. 1947 § 5992-124. Formerly RCW 77.32.260.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Chapter 77.24

PREDATORS—BOUNTIES

Sections
77.24.010 through 77.24.120 Repealed. (Effective July 1, 1981.)

77.24.010 through 77.24.120 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 77.28

GAME FARMERS

Sections
77.28.010 Repealed. (Effective July 1, 1981.)
77.28.020 Recodified as RCW 77.12.570. (Effective July 1, 1981.)
77.28.030 Repealed. (Effective July 1, 1981.)
77.28.040 Repealed. (Effective July 1, 1981.)
77.28.050 Repealed. (Effective July 1, 1981.)
77.28.060 Repealed. (Effective July 1, 1981.)

77.28.070 Recodified as RCW 77.12.580. (Effective July 1, 1981.)
77.28.080 Recodified as RCW 77.12.590. (Effective July 1, 1981.)
77.28.090 Recodified as RCW 77.12.600. (Effective July 1, 1981.)
77.28.100 Repealed. (Effective July 1, 1981.)
77.28.110 Repealed. (Effective July 1, 1981.)
77.28.120 Repealed. (Effective July 1, 1981.)

77.28.010 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.28.020 Recodified as RCW 77.12.570. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.28.030 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.28.040 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.28.050 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.28.060 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.28.070 Recodified as RCW 77.12.580. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.28.080 Recodified as RCW 77.12.590. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.28.090 Recodified as RCW 77.12.600. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.28.100 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.28.110 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.28.120 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 77.32

LICENSES

Sections
77.32.005 Definitions. (Effective July 1, 1981.)

- 77.32.010 Licenses or permits required. (Effective July 1, 1981.)
- 77.32.015 Recodified as RCW 77.32.155. (Effective July 1, 1981.)
- 77.32.020 Supplemental permits or tags required for taking certain wildlife, using bows and arrows or muzzle loaders, or for special hunting seasons—Procedures. (Effective July 1, 1981.)
- 77.32.032 Repealed. (Effective July 1, 1981.)
- 77.32.050 Licenses, permits, and tags issued by authorized officials, citizens—Procedures—Rules. (Effective July 1, 1981.)
- 77.32.060 Licenses, permits, and tags issued by authorized officials—Compensation. (Effective July 1, 1981.)
- 77.32.070 Information from licensees—Upon application—Reports on taking of wildlife. (Effective July 1, 1981.)
- 77.32.080 Repealed. (Effective July 1, 1981.)
- 77.32.090 Licenses, permits, and tags—Form, display, etc. (Effective July 1, 1981.)
- 77.32.101 Hunting and fishing licenses—Limitations—Fees. (Effective July 1, 1981.)
- 77.32.104 Repealed. (Effective July 1, 1981.)
- 77.32.106 Repealed. (Effective July 1, 1981.)
- 77.32.111 Repealed. (Effective July 1, 1981.)
- 77.32.114 Repealed. (Effective July 1, 1981.)
- 77.32.120 Repealed. (Effective July 1, 1981.)
- 77.32.131 Repealed. (Effective July 1, 1981.)
- 77.32.151 Repealed. (Effective July 1, 1981.)
- 77.32.155 Firearm training program—Requirement for juveniles—Certificate. (Effective July 1, 1981.)
- 77.32.161 Nonresident's temporary fishing license. (Effective July 1, 1981.)
- 77.32.185 Repealed. (Effective July 1, 1981.)
- 77.32.191 Trapper's license (as amended by 1980 c 24).
- 77.32.191 Trapper's license (as amended by 1980 c 78). (Effective July 1, 1981.)
- 77.32.195 Repealed. (Effective July 1, 1981.)
- 77.32.197 Trapper's license—Training program or examination requisite for issuance to initial licensee. (Effective July 1, 1981.)
- 77.32.201 Repealed. (Effective July 1, 1981.)
- 77.32.211 Taxidermist, fur dealer, fishing guide, game farmer—Licenses. (Effective July 1, 1981.)
- 77.32.220 Taxidermist, fur dealer, fishing guide, game farmer—Reports. (Effective July 1, 1981.)
- 77.32.226 Repealed. (Effective July 1, 1981.)
- 77.32.230 Free licenses—Certain veterans and blind or old persons—Exemption for youths. (Effective July 1, 1981.)
- 77.32.240 Collector's permit—Procedures—Penalties. (Effective July 1, 1981.)
- 77.32.245 Repealed. (Effective July 1, 1981.)
- 77.32.250 Licenses nontransferable—Inspection procedures. (Effective July 1, 1981.)
- 77.32.256 Duplicate licenses, permits, tags—Fee. (Effective July 1, 1981.)
- 77.32.260 Recodified as RCW 77.21.060. (Effective July 1, 1981.)
- 77.32.270 Repealed. (Effective July 1, 1981.)
- 77.32.280 Recodified as RCW 77.21.030. (Effective July 1, 1981.)
- 77.32.290 Recodified as RCW 77.21.020. (Effective July 1, 1981.)
- 77.32.300 Recodified as RCW 77.16.310. (Effective July 1, 1981.)
- 77.32.310 Wildlife contests and field trials—Permits. (Effective July 1, 1981.)

77.32.005 Definitions. (Effective July 1, 1981.) For the purposes of this chapter:

A "resident" means a citizen of the United States or person who has in good faith declared the intent to become a citizen of the United States, has maintained a permanent place of abode within this state for at least

ninety days immediately preceding an application for a license, and has established by formal evidence an intent to continue residing within this state.

A "nonresident" means a person who has not fulfilled the qualifications of a resident. [1980 c 78 § 102; 1961 c 94 § 1; 1957 c 176 § 14.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.32.010 Licenses or permits required. (Effective July 1, 1981.) (1) Except as otherwise provided in this chapter, a license issued by the commission is required to:

(a) Hunt for wild animals or wild birds or fish for game fish;

(b) Practice taxidermy for profit;

(c) Deal in raw furs for profit;

(d) Act as a fishing guide; or

(e) Operate a game farm.

(2) A permit issued by the commission is required to:

(a) Conduct, hold, or sponsor hunting or fishing contests or competitive field trials using wildlife; or

(b) Collect wild animals, wild birds, game fish, or protected wildlife for scientific or display purposes. [1980 c 78 § 103; 1979 ex.s. c 3 § 1; 1959 c 245 § 1; 1955 c 36 § 77.32.010. Prior: 1947 c 275 § 93; Rem. Supp. 1947 § 5992–102.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.32.015 Recodified as RCW 77.32.155. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.32.020 Supplemental permits or tags required for taking certain wildlife, using bows and arrows or muzzle loaders, or for special hunting seasons—Procedures. (Effective July 1, 1981.) In addition to the license required by RCW 77.32.010:

(1) A deer tag is required to hunt deer. The fee for this tag is five dollars.

(2) An elk tag is required to hunt elk. The fee for this tag is eleven dollars for residents and forty-two dollars for nonresidents.

(3) A goat tag is required to hunt mountain goat. The fee for this tag is eleven dollars for residents and forty-two dollars for nonresidents.

(4) A mountain sheep tag is required to hunt mountain sheep. The fee for this tag is eleven dollars for residents and forty-two dollars for nonresidents.

(5) A wild turkey tag is required to hunt wild turkey. The fee for this tag is three dollars.

(6) A bear tag is required to hunt bear. The fee for this tag is three dollars.

(7) A beaver tag is required to trap beaver. The fee for this tag is two dollars.

(8) An upland bird permit is required to hunt pheasant, quail, or partridge. The fee for this permit is three dollars.

(9) An archery and muzzleloading firearm permit is required to hunt wild animals or wild birds with a bow

and arrow or muzzleloading firearm during seasons established exclusively for hunting in that manner. The fee for this permit is six dollars.

(10) A steelhead permit is required to fish for steelhead. The fee for this permit is three dollars.

(11) A special hunting season permit is required to participate in a special hunting season. A different permit is required for each special season.

Except for steelhead permits, tags and permits required by this section are void on April 1st following the date of issuance. Steelhead permits are void on May 1st. Persons who kill deer, elk, mountain goat, mountain sheep, wild turkey, or bear shall attach their own tag to the carcass immediately and validate the tag as provided by rule of the commission.

Moneys received from the sale of tags or permits shall be deposited in the state treasury to be credited to the state game fund. [1980 c 78 § 105; 1975 1st ex.s. c 15 § 3; 1970 ex.s. c 29 § 1; 1967 c 10 § 1; 1957 c 176 § 1; 1955 c 36 § 77.32.020. Prior: 1953 c 75 § 1; 1947 c 275 § 94; 1945 c 81 § 7; 1937 c 63 § 2; 1935 c 59 § 4; Rem. Supp. 1947 § 5992-103.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Effective date—1970 ex.s. c 29: "The effective date of this 1970 amendatory act shall be January 1, 1971." [1970 ex.s. c 29 § 16.] This applies to the 1970 amendments to RCW 77.28.020, 77.32.020, 77.32.060, 77.32.100-77.32.113, 77.32.130-77.32.160, 77.32.190, 77.32.200, 77.32.225 and to RCW 77.32.255.

77.32.032 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.32.050 Licenses, permits, and tags issued by authorized officials, citizens—Procedures—Rules. (Effective July 1, 1981.) Licenses, permits, or tags required by this chapter shall be issued under the authority of the commission. The commission may authorize department personnel, county auditors, or other reputable citizens to issue licenses, permits, and tags and collect the appropriate fees. The authorized persons shall pay on demand or before December 31st of each year the fees collected and shall make reports as required by the commission. The commission may adopt rules for issuing licenses, permits, and tags, collecting and paying fees, and making reports. [1980 c 78 § 106; 1979 ex.s. c 3 § 2; 1955 c 36 § 77.32.050. Prior: 1953 c 75 § 2; 1947 c 275 § 97; Rem. Supp. 1947 § 5992-106.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.32.060 Licenses, permits, and tags issued by authorized officials—Compensation. (Effective July 1, 1981.) Persons authorized to issue licenses, permits, and tags may charge and keep up to fifty cents for each license issued, and up to twenty-five cents for each tag or permit issued. [1980 c 78 § 107; 1979 ex.s. c 3 § 3; 1970 ex.s. c 29 § 2; 1957 c 176 § 2; 1955 c 36 § 77.32.060. Prior: 1953 c 75 § 3; 1947 c 275 § 98; Rem. Supp. 1947 § 5992-107.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Effective date—1957 c 176: "Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 12 and 13 above shall become effective on January 1, 1958." [1957 c 176 § 15.]

77.32.070 Information from licensees—Upon application—Reports on taking of wildlife. (Effective July 1, 1981.) Applicants for a license shall furnish the information required by rule of the commission. The commission may adopt rules requiring licensees to keep records and make reports concerning the taking of wildlife. [1980 c 78 § 108; 1955 c 36 § 77.32.070. Prior: 1947 c 275 § 99; Rem. Supp. 1947 § 5992-108.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.32.080 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.32.090 Licenses, permits, and tags—Form, display, etc. (Effective July 1, 1981.) The commission may adopt rules pertaining to the form, period of validity, use, possession, and display of licenses, permits, and tags required by this chapter. [1980 c 78 § 109; 1955 c 36 § 77.32.090. Prior: 1947 c 275 § 101; Rem. Supp. 1947 § 5992-110.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.32.101 Hunting and fishing licenses—Limitations—Fees. (Effective July 1, 1981.) (1) A state hunting and fishing license allows a resident holder to hunt and fish throughout the state. The fee for this license is fourteen dollars.

(2) A state hunting license allows the holder to hunt throughout the state. The fee for this license is seven dollars and fifty cents for residents and sixty dollars for nonresidents.

(3) A state fishing license allows the holder to fish throughout the state. The fee for this license is eight dollars and fifty cents for residents and twenty-four dollars for nonresidents.

(4) A county hunting and fishing license allows a resident to hunt and fish in the county of the holder's residence and for which the license is issued. The fee for this license is nine dollars.

(5) A county fishing license allows a resident to fish in the county of the holder's residence and for which the license is issued. The fee for this license is seven dollars. [1980 c 78 § 110; 1975 1st ex.s. c 15 § 20.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Effective dates—1975 1st ex.s. c 15: "Section 19 of this 1975 amendatory act shall be effective April 1, 1976. Sections 20 through 32 of this 1975 amendatory act shall be effective January 1, 1976." [1975 1st ex.s. c 15 § 34.]

77.32.104 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.32.106 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.32.111 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.32.114 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.32.120 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.32.131 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.32.151 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.32.155 Firearm training program—Requirement for juveniles—Certificate. (Effective July 1, 1981.) When purchasing a hunting license, persons under the age of eighteen shall present certification of completion of a course of instruction of at least six hours in the safe handling of firearms.

The commission may establish a program for training persons in the safe handling of firearms, and may cooperate with the National Rifle Association, organized sportsmen's groups, or other public or private organizations.

The commission shall prescribe the type of instruction and the qualifications of the instructors.

Upon successful completion of the course, a trainee shall receive a firearms safety certificate signed by an authorized instructor. The certificate is evidence of compliance with this section. [1980 c 78 § 104; 1957 c 17 § 1. Formerly RCW 77.32.015.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.32.161 Nonresident's temporary fishing license. (Effective July 1, 1981.) A nonresident may obtain a temporary state fishing license, which allows the holder to fish throughout the state for seven days following its issuance. The fee for this license is seven dollars and twenty-five cents. This license does not entitle the holder to fish for steelhead. [1980 c 78 § 112; 1975 1st ex.s. c 15 § 27.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Effective dates—1975 1st ex.s. c 15: See note following RCW 77.32.101.

77.32.185 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.32.191 Trapper's license (as amended by 1980 c 24). Any resident over the age of sixteen years may by paying the sum of twenty dollars and any resident under the age of sixteen years may by paying the sum of twelve dollars obtain a state trapping license which shall entitle the holder thereof to trap furbearing animals for their hides or their pelts only, within any county of the state until the first day of April next following the date of its issuance, at any time when it is lawful to trap such animals. [1980 c 24 § 2; 1975 1st ex.s. c 15 § 28.]

77.32.191 Trapper's license (as amended by 1980 c 78). (Effective July 1, 1981.) A state trapping license allows the holder to trap furbearing animals throughout the state. A state trapping license is void on April 1st following the date of issuance. The fee for this license is eleven dollars for residents and fifty dollars for nonresidents. [1980 c 78 § 113; 1975 1st ex.s. c 15 § 28.]

Reviser's note: RCW 77.32.191 was amended twice during the 1980 regular 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—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Effective dates—1975 1st ex.s. c 15: See note following RCW 77.32.101.

77.32.195 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.32.197 Trapper's license—Training program or examination requisite for issuance to initial licensee. (Effective July 1, 1981.) Persons purchasing a state trapping license for the first time shall present certification of completion of a course of instruction in safe, humane, and proper trapping techniques or pass an examination to establish that the applicant has the requisite knowledge.

The commission shall establish a program for training persons in trapping techniques and responsibilities, including the use of trapping devices designed to painlessly capture or instantly kill. 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, trainees shall receive a trapper's training certificate signed by an authorized instructor. This certificate is evidence of compliance with this section. [1980 c 78 § 114; 1977 c 43 § 1.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.32.201 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.32.211 Taxidermist, fur dealer, fishing guide, game farmer—Licenses. (Effective July 1, 1981.) (1) A taxidermy license allows the holder to practice taxidermy for profit. The fee for this license is eleven dollars.

(2) A fur dealer's license allows the holder to purchase, receive, or resell raw furs for profit. The fee for this license is eleven dollars.

(3) A fishing guide license allows the holder to offer or perform the services of a professional guide in the taking of game fish. The fee for this license is seventy-

six dollars for a resident and one hundred fifty dollars for a nonresident.

(4) A game farm license allows the holder to operate a game farm to acquire, breed, grow, keep, and sell wildlife under conditions prescribed by the commission. The fee for this license is forty-one dollars for the first year and twenty-one for each following year. [1980 c 78 § 115; 1975 1st ex.s. c 15 § 30.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Effective dates—1975 1st ex.s. c 15: See note following RCW 77.32.101.

77.32.220 Taxidermist, fur dealer, fishing guide, game farmer—Reports. (Effective July 1, 1981.) Licensed taxidermists, fur dealers, fishing guides, and game farmers shall make reports as required by rules of the commission. [1980 c 78 § 116; 1955 c 36 § 77.32.220. Prior: 1947 c 275 § 111; Rem. Supp. 1947 § 5992-120.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.32.226 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.32.230 Free licenses—Certain veterans and blind or old persons—Exemption for youths. (Effective July 1, 1981.) (1) A person sixty-five years of age or older who is an honorably discharged veteran of the United States armed forces having a service-connected disability and who has been a resident for five years may receive upon application a state hunting and fishing license free of charge.

(2) A person seventy years of age or older who has been a resident for ten years or a blind person may receive upon application a fishing license free of charge.

(3) A fishing license is not required for persons under the age of sixteen.

(4) Tags and permits required by this chapter shall be purchased separately by persons receiving a free license, except that a fee shall not be charged for a steelhead permit. [1980 c 78 § 117; 1973 1st ex.s. c 58 § 1; 1961 c 94 § 2; 1959 c 245 § 2; 1955 c 36 § 77.32.230. Prior: 1947 c 275 § 112; Rem. Supp. 1947 § 5992-121.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.32.240 Collector's permit—Procedures—Penalties. (Effective July 1, 1981.) A collector's permit allows the holder to collect wildlife or their nests and eggs for scientific or display purposes under conditions prescribed by the director. Before a permit is issued, the applicant shall demonstrate the qualifications and establish the need for the permit. The director may require a bond of up to one thousand dollars to insure compliance with the permit. Permits are valid for the time specified, unless sooner revoked. Permits shall not be issued for longer than one year from March 1st of the year in which they are issued.

The holder of a permit may exchange specimens with others with the approval of the director.

A permit holder who violates this section shall forfeit the permit and bond and shall not receive a similar permit for one year. [1980 c 78 § 119; 1955 c 36 § 77.32.240. Prior: 1947 c 275 § 113; Rem. Supp. 1947 § 5992-122.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.32.245 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.32.250 Licenses nontransferable—Inspection procedures. (Effective July 1, 1981.) Licenses, permits, and tags required by this chapter shall not be transferred and, unless otherwise provided in this chapter, are void on January 1st following the year in which the license, permit, or tag was issued.

Upon request of a wildlife agent or ex officio wildlife agent, persons hunting, fishing, or possessing wildlife shall produce required licenses, permits, or tags for inspection and write their signatures for comparison with the license. Failure to comply with the request is prima facie evidence that the person has no license or is not the person named. [1980 c 78 § 120; 1955 c 36 § 77.32.250. Prior: 1947 c 275 § 114; Rem. Supp. 1947 § 5992-123.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.32.256 Duplicate licenses, permits, tags—Fee. (Effective July 1, 1981.) Upon proof of the loss, mutilation, or destruction of a license, permit, or tag required by this chapter, the director shall issue a duplicate for a fee of two dollars. [1980 c 78 § 121; 1975 1st ex.s. c 15 § 32.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Effective dates—1975 1st ex.s. c 15: See note following RCW 77.32.101.

77.32.260 Recodified as RCW 77.21.060. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.32.270 Repealed. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.32.280 Recodified as RCW 77.21.030. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.32.290 Recodified as RCW 77.21.020. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.32.300 Recodified as RCW 77.16.310. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.32.310 Wildlife contests and field trials—Permits. (Effective July 1, 1981.) A hunting and fishing contest permit allows the holder to promote, conduct, hold, or sponsor hunting or fishing contests or competitive field trials under conditions prescribed by the director. The fee for this permit is one dollar. [1980 c 78 § 118.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Chapter 77.40 SHOOTING GROUNDS

Sections

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| 77.40.010 | Decodified. (Effective July 1, 1981.) |
| 77.40.030 | Decodified. (Effective July 1, 1981.) |
| 77.40.040 | Decodified. (Effective July 1, 1981.) |
| 77.40.050 | Recodified as RCW 77.12.550. (Effective July 1, 1981.) |
| 77.40.060 | Recodified as RCW 77.12.560. (Effective July 1, 1981.) |
| 77.40.070 | Decodified. (Effective July 1, 1981.) |
| 77.40.080 | Recodified as RCW 77.12.540. (Effective July 1, 1981.) |
| 77.40.090 | Decodified. (Effective July 1, 1981.) |

77.40.010 Decodified. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.40.030 Decodified. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.40.040 Decodified. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.40.050 Recodified as RCW 77.12.550. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.40.060 Recodified as RCW 77.12.560. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.40.070 Decodified. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.40.080 Recodified as RCW 77.12.540. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.40.090 Decodified. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 77.98 CONSTRUCTION

Sections

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| 77.98.010 | Decodified. (Effective July 1, 1981.) |
| 77.98.020 | Decodified. (Effective July 1, 1981.) |
| 77.98.030 | Decodified. (Effective July 1, 1981.) |
| 77.98.040 | Decodified. (Effective July 1, 1981.) |
| 77.98.050 | Decodified. (Effective July 1, 1981.) |

77.98.010 Decodified. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.98.020 Decodified. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.98.030 Decodified. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.98.040 Decodified. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.98.050 Decodified. (Effective July 1, 1981.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Title 79 PUBLIC LANDS

Chapters

| | |
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| 79.01 | Public lands act. |
| 79.14 | Oil and gas leases on state lands. |
| 79.80 | Unappropriated public lands. |

Chapter 79.01 PUBLIC LANDS ACT

Sections

| | |
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| 79.01.770 | School districts, institutions of higher education, purchase of leased lands with improvements by— Authorized—Exception—Time limitation— Price. |
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79.01.770 School districts, institutions of higher education, purchase of leased lands with improvements by—Authorized—Exception—Time limitation—Price. Notwithstanding the provisions of RCW 79.01.096 or any other provision of law, any school district or institution of higher education, that on August 9, 1971 is leasing land granted to the state by the United States and on which land by January 1, 1976, such district or institution has placed improvements as defined in RCW 79.01.036 shall be afforded the opportunity by the department of natural resources at any time prior to January 1, 1981, to purchase such land, excepting land

over which the department retains management responsibilities, for the purposes of schoolhouse construction and/or necessary supporting facilities or structures at the appraised value thereof less the value that any improvements thereon added to the value of the land itself at the time of the sale thereof. [1980 c 115 § 8; 1971 ex.s. c 200 § 2.]

Severability—1980 c 115: See note following RCW 28A.58.040.

Severability—1971 ex.s. c 200: See note following RCW 79.01.096.

Chapter 79.14

OIL AND GAS LEASES ON STATE LANDS

Sections

79.14.030 Rental fees—Minimum royalties.

79.14.030 Rental fees—Minimum royalties. The department of natural resources shall require as a prerequisite to the issuing of any lease a rental as set by the board of natural resources but not less than one dollar and twenty-five cents per acre for the first year of such lease, payable in advance to the department of natural resources at the time the lease is awarded and a like rental annually in advance thereafter so long as such lease remains in force: *Provided*, That such rental shall cease at such time as royalty accrues to the state from production from such lease. Commencing with the lease year beginning on or after oil, gas or other hydrocarbon substances are first produced in quantities deemed paying quantities by lessee on the land subject to such lease, lessee shall pay a minimum royalty as set by the board of natural resources but not less than five dollars per acre or fraction thereof at the expiration of each year. Royalties payable by the lessee shall be the royalties from production as provided for in RCW 79.14.070 or the minimum royalty provided herein, whichever is greater: *Provided*, That if such lease is unitized, the minimum royalty shall be payable only on the leased acreage after production is obtained in such paying quantities from such lease. [1980 c 151 § 1; 1955 c 131 § 3. Prior: 1937 c 161 § 4; 1927 c 255 § 176. Formerly RCW 78.28.300.]

Chapter 79.80

UNAPPROPRIATED PUBLIC LANDS

Sections

79.80.010 Definitions.
79.80.020 Title of unappropriated lands vested—Rights preserved—State administration.
79.80.030 Department management responsibilities.
79.80.040 Disposition of funds.
79.80.050 Jurisdiction.
79.80.900 Severability—1980 c 116.
79.80.901 Effective date—1980 c 116.

79.80.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Department" means the department of natural resources.

(2) "Public lands" means all unreserved unappropriated public lands within the exterior boundaries of the state except lands:

(a) To which title is held by any private person or entity;

(b) To which title was held by the state or any political subdivision of the state on *the effective date of this act;

(c) Within the boundaries of:

(i) national parks;

(ii) national forests;

(iii) national monuments;

(iv) national wildlife and migratory bird sanctuaries established prior to October 16, 1978; and

(v) military reservations;

(d) Which are essential to the operation, maintenance, and access to:

(i) United States Corps of Engineers, and United States Bureau of Reclamation projects;

(ii) designated United States highways;

(iii) shipyards, docks, security and defense establishments, magazines, and arsenals;

(e) On which buildings are sited to house operations of the United States Government; or

(f) Owned or controlled by Indian Reservations.

[1980 c 116 § 2.]

***Reviser's note:** For "the effective date of this act", see RCW 79.80.901.

Legislative findings—1980 c 116: "The legislature of this state finds that:

(1) The intent of the framers of that compact known as the Constitution of the United States was to guarantee to each of the several states sovereignty over all matters within its boundaries excepting only those powers specifically granted to the government of the United States, as agent of the several states, under the Constitution of the United States;

(2) The imposition upon the state of Washington by the congress of the United States, of a requirement that the state of Washington "disclaim all right and title to the unappropriated public lands" lying within the state as a condition prerequisite to acceptance of the state of Washington into the union, was an act beyond the power of the congress of the United States and is thus null and of no effect;

(3) The present purported ownership and control of the public lands within the state of Washington by the government of the United States is without foundation and violates the clear intent of the Constitution of the United States; and

(4) The purported ownership and control of the public lands within the state of Washington by the government of the United States works a severe, continuous, and debilitating hardship upon the people of the state of Washington." [1980 c 116 § 1.]

Study directed—1980 c 116: "(1) The department of natural resources shall conduct a study of the public lands of this state to determine:

(a) Which lands should be made available for disposition; and

(b) Which lands should be retained by the state as habitats for wildlife or for recreational or other public purposes.

(2) The department of natural resources shall submit a report of its findings and recommendations to the legislature by January 1, 1982." [1980 c 116 § 7.]

79.80.020 Title of unappropriated lands vested—Rights preserved—State administration. (1) Subject to existing rights of the people, on and after *the effective date of this act, fee title to all public lands in Washington, all waters on and below the surface of the

land and all minerals not previously appropriated is vested in the state of Washington.

(2) Until equivalent measures are enacted by the state of Washington, the rights and privileges of the people of the state under the national forest reserve transfer act (16 U.S.C. Sec. 471 et seq.), the general mining laws (30 U.S.C. Sec. 21 et seq.), the homestead act (43 U.S.C. Sec. 161 et seq.), the Taylor grazing act (43 U.S.C. Sec. 315 et seq.) and the desert land act (43 U.S.C. Sec. 321 et seq.) and all rights of way and easements for public utilities shall be preserved under administration by the state.

(3) Public lands which have been administered by the United States under international treaties or interstate compacts shall continue to be administered by the state in conformance with those treaties or compacts. [1980 c 116 § 3.]

***Reviser's note:** For "the effective date of this act", see RCW 79.80.901.

Legislative findings—Study directed—1980 c 116: See notes following RCW 79.80.010.

79.80.030 Department management responsibilities. The public lands under this chapter shall be managed by the department and used to the greatest extent possible for recreation, wildlife habitat, agriculture, mineral and timber production and for the development, production, and transmission of energy and other public utility services under principles of multiple use which provide maximum benefit to the people of the state. [1980 c 116 § 4.]

Legislative findings—Study directed—1980 c 116: See notes following RCW 79.80.010.

79.80.040 Disposition of funds. Proceeds of sales, fees, rents, royalties, or other money paid or due the state under this chapter shall be deposited with the state treasurer to be credited to the general fund: *Provided*, That the department shall deposit with each affected county in which lands are transferred an amount in equal proportion to revenues now or which would have been received by the county from revenue sharing programs established on those federal lands: *Provided further*, That such revenue shall be no less than twenty-five percent of the gross revenues earned by the state on such transferred lands.

Where leases of the public lands are sought, annual fees not to exceed fair market value shall be charged, with provision in each lease for tenure by the lessee. [1980 c 116 § 5.]

Legislative findings—Study directed—1980 c 116: See notes following RCW 79.80.010.

79.80.050 Jurisdiction. (1) The state of Washington has exclusive jurisdiction to enforce this chapter.

(2) A citizen of this state may institute civil action to recover damages for any injury or loss which is sustained as the result of a violation of this chapter.

(3) A person who attempts to exercise jurisdiction over the public lands under this chapter in a manner not permitted by the laws of this state shall be punished by

imprisonment in the state prison for not less than two years nor more than ten years.

(4) A corporation or other entity which attempts to exercise jurisdiction over the public lands under this chapter in a manner not permitted by the laws of this state shall be punished by a fine of not more than five thousand dollars. [1980 c 116 § 6.]

Legislative findings—Study directed—1980 c 116: See notes following RCW 79.80.010.

79.80.900 Severability—1980 c 116. 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. [1980 c 116 § 9.]

79.80.901 Effective date—1980 c 116. This 1980 act shall take effect on January 1, 1981, if the *proposed amendment to Article XXVI of the state Constitution revoking this state's disclaimer of rights to unappropriated public lands is validly submitted and is approved and ratified by the voters at a general election held in November, 1980. If the proposed amendment is not so approved and ratified, this 1980 act shall be null and void in its entirety. [1980 c 116 § 10.]

***Reviser's note:** The proposed amendment is contained in Senate Joint Resolution No. 132.

Title 80 PUBLIC UTILITIES

Chapters

80.28 Gas, electrical, and water companies.

Chapter 80.28

GAS, ELECTRICAL, AND WATER COMPANIES

Sections

80.28.025 Encouragement of energy cogeneration, conservation, and production from renewable resources.

80.28.025 Encouragement of energy cogeneration, conservation, and production from renewable resources. In establishing rates for each gas and electric company regulated by this chapter, the commission shall adopt policies to encourage meeting or reducing energy demand through cogeneration as defined in RCW 82.35-.020, measures which improve the efficiency of energy end use, and new projects which produce or generate energy from renewable resources, such as solar energy, wind energy, hydroelectric energy, geothermal energy, wood, wood waste, municipal wastes, agricultural products and wastes, and end-use waste heat. These policies shall include but are not limited to allowing a return on investment in measures to improve the efficiency of energy end use, cogeneration, or projects which produce or generate energy from renewable resources which return is established by adding an increment of two percent to

the rate of return on common equity permitted on the company's other investment. Measures or projects encouraged under this section are those for which construction or installation is begun after June 12, 1980, and before January 1, 1990, and which, at the time they are placed in the rate base, are reasonably expected to save, produce, or generate energy at a total incremental system cost per unit of energy delivered to end use which is less than or equal to the incremental system cost per unit of energy delivered to end use from similarly available conventional energy resources which utilize nuclear energy or fossil fuels and which the gas or electric company could acquire to meet energy demand in the same time period. The rate of return increment shall be allowed for a period not to exceed thirty years after the measure or project is first placed in the rate base. [1980 c 149 § 2.]

Legislative finding—1980 c 149: "The legislature finds and declares that the potential for meeting future energy needs through conservation measures, including energy conservation loans, energy audits, and the use of renewable resources, such as solar energy, wind energy, wood, wood waste, municipal waste, agricultural products and wastes, hydroelectric energy, geothermal energy, and end-use waste heat, may not be realized without incentives to public and private energy utilities. The legislature therefore finds and declares that actions and incentives by state government to promote conservation and the use of renewable resources would be of great benefit to the citizens of this state by encouraging efficient energy use and a reliable supply of energy based upon renewable energy resources." [1980 c 149 § 1.]

Public utility tax exemptions relating to energy conservation and production from renewable resources: RCW 82.16.055.

Title 81

TRANSPORTATION

Chapters

- 81.04** Regulations—General.
- 81.29** Common carriers—Limitations on liability.
- 81.68** Auto transportation companies.
- 81.70** Passenger charter carriers.
- 81.80** Motor freight carriers.

Chapter 81.04

REGULATIONS—GENERAL

Sections

- 81.04.390 Penalties—Violations by persons.

81.04.390 Penalties—Violations by persons. Every person who, either individually, or acting as an officer or agent of a corporation other than a public service company, violates any provision of this title, or fails to observe, obey, or comply with any order made by the commission under this title, so long as the same is or remains in force, or who procures, aids, or abets any such corporation in its violation of this title, or in its failure to obey, observe, or comply with any such order, is guilty

of a gross misdemeanor, except that a violation pertaining to equipment on motor carriers transporting hazardous material is a misdemeanor. [1980 c 104 § 5; 1961 c 14 § 81.04.390. Prior: 1911 c 117 § 97; RRS § 10446.]

Chapter 81.29

COMMON CARRIERS—LIMITATIONS ON LIABILITY

Sections

- 81.29.020 Carrier's liability for loss—Limitation—Exceptions—Tariff schedule—Time for filing claims or instituting suits.

81.29.020 Carrier's liability for loss—Limitation—Exceptions—Tariff schedule—Time for filing claims or instituting suits. Any common carrier receiving property for transportation wholly within the state of Washington from one point in the state of Washington to another point in the state of Washington, shall issue a receipt or bill of lading therefor, and shall be liable to the lawful holder thereof for any loss, damage, or injury to such property caused by it, or by any common carrier to which such property may be delivered, or over whose line or lines such property may pass when transported on a through bill of lading, and no contract, receipt, rule, regulation, or other limitation of any character whatsoever, shall exempt such common carrier from the liability imposed; and any such common carrier so receiving property for transportation wholly within the state of Washington, or any common carrier delivering said property so received and transported, shall be liable to the lawful holder of said receipt or bill of lading, or to any party entitled to recover thereon, whether such receipt or bill of lading has been issued or not, for the full actual loss, damage, or injury to such property caused by it or by any such common carrier to which such property may be delivered, or over whose line or lines such property may pass, when transported on a through bill of lading, notwithstanding any limitation of liability or limitation of the amount of recovery, or representation or agreement as to value in any such receipt or bill of lading, or in any contract, rule, or regulation, or in any tariff filed with the commission; and any such limitation, without respect to the manner or form in which it is sought to be made, is hereby declared to be unlawful and void: *Provided, however,* That the provisions hereof respecting liability for full actual loss, damage, or injury, notwithstanding any limitation of liability or recovery or representation or agreement or release as to value, and declaring any such limitation to be unlawful and void, shall not apply: First, to baggage carried on passenger trains, boats, motor vehicles, or aircraft, or trains, boats, motor vehicles, or aircraft carrying passengers; second, to property, except ordinary livestock received for transportation concerning which the carrier shall have been or shall be expressly authorized or required by order of the commission, to establish and maintain rates dependent upon the value declared in writing by the shipper or agreed upon in writing as the

released value of the property, in which case such declaration or agreement shall have no other effect than to limit liability and recovery to an amount not exceeding the value so declared or released; and any tariff schedule which may be filed with the commission pursuant to such order shall contain specific reference thereto and may establish rates varying with the value so declared and agreed upon; and the commission is hereby empowered to make such order in cases where rates dependent upon and varying with declared or agreed values would, in its opinion, be just and reasonable under the circumstances and conditions surrounding the transportation. If the receipt, manifest or bill of lading is for hazardous material, as defined in 49 CFR 172, transported by motor vehicle upon the public highways of this state, it shall be red in color or shall have a red border. Red bills of lading, receipts or manifests or red bordered bills of lading, receipts or manifests shall only be used for the transportation of hazardous materials as defined in 49 CFR 172. The term "ordinary livestock" shall include all cattle, swine, sheep, goats, horses, and mules, except such as are chiefly valuable for breeding, racing, show purposes, or other special uses: *Provided, further*, That nothing in this section shall deprive any holder of such receipt or bill of lading of any remedy or right of action which he has under the existing law: *Provided, further*, That it shall be unlawful for any such receiving or delivering common carrier to provide by rule, contract, regulation, or otherwise a shorter period for the filing of claims than nine months, and for the institution of suits than two years, such period for institution of suits to be computed from the day when notice in writing is given by the carrier to the claimant that the carrier has disallowed the claim or any part or parts thereof specified in the notice: *And provided, further*, That for the purposes of this section and of RCW 81.29.030 the delivering carrier in the case of rail transportation shall be construed to be the carrier performing the linehaul service nearest to the point of destination, and not a carrier performing merely a switching service at the point of destination: *And provided further*, That the liability imposed by this section shall also apply in the case of property reconsigned or diverted in accordance with the applicable tariffs filed with the commission. [1980 c 132 § 1; 1961 c 14 § 81.29.020. Prior: 1945 c 203 § 2; 1923 c 149 § 1; Rem. Supp. 1945 § 3673-1. Formerly RCW 81.32.290 through 81.32.330.]

Effective date—1980 c 132: "This 1980 act shall take effect on July 1, 1980." [1980 c 132 § 4.]

Chapter 81.68

AUTO TRANSPORTATION COMPANIES

Sections

81.68.080 Penalty. (Effective until January 1, 1981.)
81.68.080 Penalty. (Effective January 1, 1981.)

81.68.080 Penalty. (Effective until January 1, 1981.) Every officer, agent or employee of any corporation, and every other person who violates or fails to

comply with, or who procures, aids or abets in the violation of any provisions of this chapter, or who fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement, or any part of provision thereof, is guilty of a gross misdemeanor and punishable as such. [1961 c 14 § 81.68.080. Prior: 1921 c 111 § 7; RRS § 6393.]

81.68.080 Penalty. (Effective January 1, 1981.) Every officer, agent, or employee of any corporation, and every other person who violates or fails to comply with, or who procures, aids, or abets in the violation of any provisions of this chapter, or who fails to obey, observe, or comply with any order, decision, rule or regulation, direction, demand, or requirement, or any part of provision thereof, is guilty of a gross misdemeanor and punishable as such: *Provided*, That violation of an order, decision, rule or regulation, direction, demand, or requirement relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of an order, decision, rule or regulation, direction, demand, or requirement equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 is a misdemeanor. [1979 ex.s. c 136 § 106; 1961 c 14 § 81.68.080. Prior: 1921 c 111 § 7; RRS § 6393.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Chapter 81.70

PASSENGER CHARTER CARRIERS

Sections

81.70.170 Unlawful acts or omissions—Penalty. (Effective until January 1, 1981.)
81.70.170 Unlawful acts or omissions—Penalty. (Effective January 1, 1981.)

81.70.170 Unlawful acts or omissions—Penalty. (Effective until January 1, 1981.) Every person who knowingly or wilfully violates or fails to comply with or who knowingly or wilfully procures, aids or abets in the violation of any provisions of this chapter or who knowingly or wilfully fails to obey or comply with any order, decision, rule, regulation, direction, demand or requirement of the commission or any part or provisions thereof is guilty of a gross misdemeanor. [1965 c 150 § 18.]

81.70.170 Unlawful acts or omissions—Penalty. (Effective January 1, 1981.) Every person who knowingly or wilfully violates or fails to comply with or who knowingly or wilfully procures, aids, or abets in the violation of any provisions of this chapter or who knowingly or wilfully fails to obey or comply with any order, decision, rule, regulation, direction, demand, or requirement of the commission or any part or provisions thereof is guilty of a gross misdemeanor: *Provided*, That violation of an order, decision, rule, regulation, direction, demand, or requirement relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of an order, decision, rule, regulation, direction, demand, or requirement equivalent

to those provisions of Title 46 RCW set forth in RCW 46.63.020 is a misdemeanor. [1979 ex.s. c 136 § 107; 1965 c 150 § 18.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Chapter 81.80 MOTOR FREIGHT CARRIERS

Sections

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| 81.80.230 | Penalty for rebating—Procedures for collection. |
| 81.80.290 | Rules and regulations. |
| 81.80.330 | Enforcement of chapter. |

81.80.230 Penalty for rebating—Procedures for collection. Any person, whether carrier subject to the provisions of this chapter, shipper, or consignee, or any officer, employee, agent, or representative thereof, who shall offer, grant, or give, or solicit, accept, or receive any rebate, concession, or discrimination in violation of any provision of this chapter, or who by means of any false statement or representation, or by the use of any false or fictitious bill, bill of lading, receipt, voucher, roll, account, claim, certificate, affidavit, deposition, lease, or bill of sale, or by any other means or device shall assist, suffer or permit any person or persons, natural or artificial, to obtain transportation of property subject to this chapter for less than the applicable rate, fare, or charge, or who shall fraudulently seek to evade or defeat regulation as in this chapter provided for motor carriers shall be subject to a civil penalty of not more than one hundred dollars for each violation. Each and every such violation shall be a separate and distinct offense, and in case of a continuing violation every day's continuance shall be a separate and distinct violation. Every act of commission or omission which procures, aids, or abets in the violation shall be considered a violation under this section and subject to the penalty provided for in this section.

The penalty provided for in this section shall become due and payable when the person incurring the penalty receives a notice in writing from the commission describing the violation with reasonable particularity and advising the person that the penalty is due. The commission may, upon written application therefor, received within fifteen days, remit or mitigate any penalty provided for in this section or discontinue any prosecution to recover the penalty upon such terms as the commission in its discretion deems proper. The commission has authority to ascertain the facts upon all such applications in such manner and under such regulations as it may deem proper. If the penalty is not paid to the commission within fifteen days after receipt of notice imposing the penalty or application for remission or mitigation has not been made within fifteen days after the violator has received notice of the disposition of the application, the attorney general shall bring an action in the name of the state of Washington in the superior court of Thurston county or of some other county in which the

violator may do business, to recover the penalty. In all such actions, the procedure and rules of evidence shall be the same as in an ordinary civil action except as otherwise provided in this section. All penalties recovered under this section shall be paid into the state treasury and credited to the public service revolving fund. [1980 c 132 § 2; 1961 c 14 § 81.80.230. Prior: 1947 c 264 § 6; Rem. Supp. 1947 § 6382-19a.]

Effective date—1980 c 132: See note following RCW 81.29.020.

81.80.290 Rules and regulations.

Violation of rules pertaining to vehicle equipment on motor carriers transporting hazardous material: RCW 46.48.175.

81.80.330 Enforcement of chapter. The commission is hereby empowered to administer and enforce all provisions of this chapter and to inspect the vehicles, books and documents of all "motor carriers" and the books, documents and records of those using the service of the carriers for the purpose of discovering all discriminations and rebates and other information pertaining to the enforcement of this chapter and shall prosecute violations thereof. The commission shall employ such auditors, inspectors, clerks and assistants as it may deem necessary for the enforcement of this chapter, and it shall be the duty of the Washington state patrol to assist in the enforcement of this chapter, and the duty of the attorney general to assign at least one assistant to the exclusive duty of assisting the commission in the enforcement of this chapter, and the prosecution of persons charged with the violation thereof. It shall be the duty of the Washington state patrol and the sheriffs of the counties to make arrests and the county attorneys to prosecute violations of this chapter. [1980 c 132 § 3; 1961 c 14 § 81.80.330. Prior: 1935 c 184 § 29; RRS § 6382-29.]

Effective date—1980 c 132: See note following RCW 81.29.020.

Title 82 EXCISE TAXES

Chapters

| | |
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| 82.01 | Department of revenue. |
| 82.04 | Business and occupation tax. |
| 82.08 | Retail sales tax. |
| 82.12 | Use tax. |
| 82.14 | Counties, cities and metropolitan municipal corporations—Retail sales and use taxes. |
| 82.16 | Public utility tax. |
| 82.20 | Tax on conveyances. |
| 82.27 | Tax on food fish and shellfish. |
| 82.29A | Leasehold excise tax. |
| 82.34 | Pollution control facilities—Tax exemptions and credits. |
| 82.36 | Motor vehicle fuel tax. |
| 82.38 | Special fuel tax act. |
| 82.44 | Motor vehicle excise. |
| 82.45 | Excise tax on real estate sales. |

Chapter 82.01
DEPARTMENT OF REVENUE

Sections

82.01.110 Tax exemption impact report.

82.01.110 Tax exemption impact report. Prior to the start of the regular session each year, the director shall submit a tax exemption impact report to the legislature estimating the revenue foregone as a result of the exemptions under RCW 82.04.325, 84.36.490, and 82-29A.135. [1980 c 157 § 4.]

Chapter 82.04
BUSINESS AND OCCUPATION TAX

Sections

82.04.325 Exemptions—Alcohol manufactured for gasohol—Gasohol for motor vehicle fuel—Expiration of section.

82.04.330 Exemptions—Agriculture.

82.04.425 Exemptions—Accommodation sales.

82.04.4281 Deductions—Investments—Dividends from subsidiary corporations.

82.04.4282 Deductions—Initiation fees, dues, contributions, donations, tuition fees, charges for operating private kindergartens, and endowment funds.

82.04.4283 Deductions—Cash discount taken by purchaser.

82.04.4284 Deductions—Credit losses of accrual basis taxpayers.

82.04.4285 Deductions—Motor vehicle fuel taxes.

82.04.4286 Deductions—Nontaxable business.

82.04.4287 Deductions—Compensation for receiving, washing, etc., horticultural products for person exempt under RCW 82.04.330—Materials and supplies used.

82.04.4288 Deductions—Compensation for services to patients and attendant sales of prescription drugs by publicly operated hospitals.

82.04.4289 Deductions—Compensation for services to patients and attendant sales of prescription drugs by non-profit hospitals and nursing homes and homes for unwed mothers operated by religious or charitable organizations.

82.04.4291 Deductions—Compensation received by a political subdivision from another political subdivision for services taxable under RCW 82.04.290.

82.04.4292 Deductions—Interest on investments or loans secured by mortgages or deeds of trust.

82.04.4293 Deductions—Interest on obligations of the state, its political subdivisions, and municipal corporations.

82.04.4294 Deductions—Interest on loans to farmers and ranchers, producers or harvesters of aquatic products, or their cooperatives.

82.04.4295 Deductions—Manufacturing activities completed outside the United States.

82.04.4296 Deductions—Reimbursement for accommodation expenditures by funeral homes.

82.04.4297 Deductions—Compensation from public entities for health or social welfare services.

82.04.4298 Deductions—Repair, maintenance, replacement, etc., of residential structures and commonly held property—Eligible organizations.

82.04.430 Deductions enumerated. (Repealed)

82.04.431 "Health or social welfare organization" defined for RCW 82.04.4297—Conditions for exemption—"Health or social welfare services" defined.

82.04.325 Exemptions—Alcohol manufactured for gasohol—Gasohol for motor vehicle fuel—Expiration of section. The tax imposed by RCW 82.04.270(1)

does not apply to any person who manufactures alcohol with respect to sales of said alcohol to be used in the production of gasohol for use as motor vehicle fuel, nor with respect to sales of gasohol for use as motor vehicle fuel. As used in this section, "motor vehicle fuel" has the meaning given in RCW 82.36.010(2), and "gasohol" means motor vehicle fuel which contains more than nine and one-half percent alcohol by volume. This RCW section shall expire December 31, 1986. [1980 c 157 § 3; 1979 ex.s. c 196 § 13.]

Effective date—1979 ex.s. c 196: See note following RCW 82.04.240.

82.04.330 Exemptions—Agriculture.

Deductions—Compensation for receiving, washing, etc., horticultural products for person exempt under RCW 82.04.330—Materials and supplies used: RCW 82.04.4287.

82.04.425 Exemptions—Accommodation sales.

This chapter shall not apply to sales for resale by persons regularly engaged in the business of making sales of the type of property so sold to other persons similarly engaged in the business of selling such property where (1) the amount paid by the buyer does not exceed the amount paid by the seller to his vendor in the acquisition of the article and (2) the sale is made as an accommodation to the buyer to enable him to fill a bona fide existing order of a customer or is made within fourteen days to reimburse in kind a previous accommodation sale by the buyer to the seller; nor to sales by a wholly owned subsidiary of a person making sales at retail which are exempt under RCW 82.08.0262 when the parent corporation shall have paid the tax imposed under this chapter. [1980 c 37 § 78; 1965 ex.s. c 173 § 9; 1961 c 15 § 82.04.425. Prior: 1955 c 95 § 1.]

Intent—1980 c 37: See note following RCW 82.04.4281.

Effective date—1965 ex.s. c 173: See note following RCW 82.04.050.

82.04.4281 Deductions—Investments—Dividends from subsidiary corporations. In computing tax there may be deducted from the measure of tax 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. [1980 c 37 § 2. Formerly RCW 82.04.430(1).]

Intent—1980 c 37: "The separation of sales tax exemption, use tax exemption, and business and occupation deduction sections into shorter sections is intended to improve the readability and facilitate the future amendment of these sections. This separation shall not change the meaning of any of the exemptions or deductions involved." [1980 c 37 § 1.]

82.04.4282 Deductions—Initiation fees, dues, contributions, donations, tuition fees, charges for operating private kindergartens, and endowment funds. In computing tax there may be deducted from the measure of tax 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. If dues are in exchange for any significant amount of goods or services rendered by the recipient thereof to members without any additional charge to the member, or if the dues are graduated upon the amount of goods or services rendered, the value of such goods or services shall not be considered as a deduction hereunder. [1980 c 37 § 3. Formerly RCW 82.04.430(2).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.04.4283 Deductions—Cash discount taken by purchaser. In computing tax there may be deducted from the measure of tax 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. [1980 c 37 § 4. Formerly RCW 82.04.430(3).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.04.4284 Deductions—Credit losses of accrual basis taxpayers. In computing tax there may be deducted from the measure of tax the amount of credit losses actually sustained by taxpayers whose regular books of account are kept upon an accrual basis. [1980 c 37 § 5. Formerly RCW 82.04.430(4).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.04.4285 Deductions—Motor vehicle fuel taxes. In computing tax there may be deducted from the measure of tax 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. [1980 c 37 § 6. Formerly RCW 82.04.430(5).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.04.4286 Deductions—Nontaxable business. In computing tax there may be deducted from the measure of tax 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. [1980 c 37 § 7. Formerly RCW 82.04.430(6).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.04.4287 Deductions—Compensation for receiving, washing, etc., horticultural products for person exempt under RCW 82.04.330—Materials and supplies used. In computing tax there may be deducted from the measure of tax 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. [1980 c 37 § 8. Formerly RCW 82.04.430(7).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.04.4288 Deductions—Compensation for services to patients and attendant sales of prescription drugs by publicly operated hospitals. In computing tax there may be deducted from the measure of tax amounts derived as compensation for services rendered or to be rendered to patients or from sales of prescription drugs as defined in RCW 82.08.0281 furnished as an integral part of services 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. [1980 c 37 § 9. Formerly RCW 82.04.430(8).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.04.4289 Deductions—Compensation for services to patients and attendant sales of prescription drugs by nonprofit hospitals and nursing homes and homes for unwed mothers operated by religious or charitable organizations. In computing tax there may be deducted from the measure of tax amounts derived as compensation for services rendered to patients or from sales of prescription drugs as defined in RCW 82.08.0281 furnished as an integral part of 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. [1980 c 37 § 10. Formerly RCW 82.04.430(9).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.04.4291 Deductions—Compensation received by a political subdivision from another political subdivision for services taxable under RCW 82.04.290. In computing tax there may be deducted from the measure of tax 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. [1980 c 37 § 11. Formerly RCW 82.04.430(10).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.04.4292 Deductions—Interest on investments or loans secured by mortgages or deeds of trust. In computing tax there may be deducted from the measure of tax 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. [1980 c 37 § 12. Formerly RCW 82.04.430(11).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.04.4293 Deductions—Interest on obligations of the state, its political subdivisions, and municipal corporations. In computing tax there may be deducted from the measure of tax 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. [1980 c 37 § 13. Formerly RCW 82.04.430(12).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.04.4294 Deductions—Interest on loans to farmers and ranchers, producers or harvesters of aquatic products, or their cooperatives. In computing tax there may be deducted from the measure of tax amounts derived as interest on loans to bona fide farmers and ranchers, producers or harvesters of aquatic products, or their cooperatives by a lending institution which is owned exclusively by its borrowers or members and which is engaged solely in the business of making loans and providing finance-related services to bona fide farmers and ranchers, producers or harvesters of aquatic products, their cooperatives, rural residents for housing, or persons engaged in furnishing farm-related or aquatic-related services to these individuals or entities. [1980 c 37 § 14. Formerly RCW 82.04.430(13).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.04.4295 Deductions—Manufacturing activities completed outside the United States. In computing tax there may be deducted from the measure of tax 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:

- (1) Any additional processing of such articles in this state consists of minor final assembly only; and
 - (2) In the case of domestic manufacture of such articles, can be and normally is done at the place of initial manufacture; and
 - (3) The total cost of the minor final assembly does not exceed two percent of the value of the articles; and
 - (4) The articles are sold and shipped outside the state.
- [1980 c 37 § 15. Formerly RCW 82.04.430(14).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.04.4296 Deductions—Reimbursement for accommodation expenditures by funeral homes. In computing tax there may be deducted from the measure of tax that portion of amounts received by any funeral home licensed to do business in this state which is received as reimbursements for expenditures (for goods supplied or services rendered by a person not employed by or affiliated or associated with the funeral home) and advanced

by such funeral home as an accommodation to the persons paying for a funeral, so long as such expenditures and advances are billed to the persons paying for the funeral at only the exact cost thereof and are separately itemized in the billing statement delivered to such persons. [1980 c 37 § 16. Formerly RCW 82.04.430(15).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.04.4297 Deductions—Compensation from public entities for health or social welfare services. In computing tax there may be deducted from the measure of tax amounts received from the United States or any instrumentality thereof or from the state of Washington or any municipal corporation or political subdivision thereof as compensation for, or to support, health or social welfare services rendered by a health or social welfare organization or by a municipal corporation or political subdivision. [1980 c 37 § 17. Formerly RCW 82.04.430(16).]

Intent—1980 c 37: See note following RCW 82.04.4281.

"Health or social welfare organization" defined for RCW 82.04.4297—Conditions for exemption—"Health or social welfare services" defined: RCW 82.04.431.

82.04.4298 Deductions—Repair, maintenance, replacement, etc., of residential structures and commonly held property—Eligible organizations. (1) In computing tax there may be deducted from the measure of tax amounts used solely for repair, maintenance, replacement, management, or improvement of the residential structures and commonly held property, but excluding property where fees or charges are made for use by the public who are not guests accompanied by a member, which are derived by:

- (a) A cooperative housing association, corporation, or partnership from a person who resides in a structure owned by the cooperative housing association, corporation, or partnership;
- (b) An association of owners of property as defined in RCW 64.32.010, as now or hereafter amended, from a person who is an apartment owner as defined in RCW 64.32.010; or
- (c) An association of owners of residential property from a person who is a member of the association. "Association of owners of residential property" means any organization of all the owners of residential property in a defined area who all hold the same property in common within the area.

(2) For the purposes of this section "commonly held property" includes areas required for common access such as reception areas, halls, stairways, parking, etc., and may include recreation rooms, swimming pools and small parks or recreation areas; but is not intended to include more grounds than are normally required in a residential area, or to include such extensive areas as required for golf courses, campgrounds, hiking and riding areas, boating areas, etc.

(3) To qualify for the deductions under this section:

- (a) The salary or compensation paid to officers, managers, or employees must be only for actual services

rendered and at levels comparable to the salary or compensation of like positions within the county wherein the property is located;

(b) Dues, fees, or assessments in excess of amounts needed for the purposes for which the deduction is allowed must be rebated to the members of the association;

(c) Assets of the association or organization must be distributable to all members and must not inure to the benefit of any single member or group of members. [1980 c 37 § 18. Formerly RCW 82.04.430(17).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.04.430 Deductions enumerated. [1979 ex.s. c 196 § 5; 1977 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.] Repealed by 1980 c 37 § 81.

Reviser's note: RCW 82.04.430 was separated into shorter sections by 1980 c 37. The following table indicates the current placement of the components of RCW 82.04.430.

| FORMERLY | NEW |
|---------------|------------|
| 82.04.430(1) | 82.04.4281 |
| 82.04.430(2) | 82.04.4282 |
| 82.04.430(3) | 82.04.4283 |
| 82.04.430(4) | 82.04.4284 |
| 82.04.430(5) | 82.04.4285 |
| 82.04.430(6) | 82.04.4286 |
| 82.04.430(7) | 82.04.4287 |
| 82.04.430(8) | 82.04.4288 |
| 82.04.430(9) | 82.04.4289 |
| 82.04.430(10) | 82.04.4291 |
| 82.04.430(11) | 82.04.4292 |
| 82.04.430(12) | 82.04.4293 |
| 82.04.430(13) | 82.04.4294 |
| 82.04.430(14) | 82.04.4295 |
| 82.04.430(15) | 82.04.4296 |
| 82.04.430(16) | 82.04.4297 |
| 82.04.430(17) | 82.04.4298 |

Intent—1980 c 37: See note following RCW 82.04.4281.

82.04.431 "Health or social welfare organization" defined for RCW 82.04.4297—Conditions for exemption—"Health or social welfare services" defined. (1) For the purposes of RCW 82.04.4297, the term "health or social welfare organization" means an organization which renders health or social welfare services as defined in subsection (2) of this section, which is a not-for-profit corporation under chapter 24.03 RCW and which is managed by a governing board of not less than eight individuals none of whom is a paid employee of the organization or which is a corporation sole under chapter 24.12 RCW. In addition a corporation in order to be exempt under RCW 82.04.4297 shall satisfy the following conditions:

(a) No part of its income may be paid directly or indirectly to its members, stockholders, officers, directors, or trustees except in the form of services rendered by the corporation in accordance with its purposes and bylaws;

(b) Salary or compensation paid to its officers and executives must be only for actual services rendered, and

at levels comparable to the salary or compensation of like positions within the public service of the state;

(c) Assets of the corporation must be irrevocably dedicated to the activities for which the exemption is granted and, on the liquidation, dissolution, or abandonment by the corporation, may not inure directly or indirectly to the benefit of any member or individual except a nonprofit organization, association, or corporation which also would be entitled to the exemption;

(d) The corporation must be duly licensed or certified where licensing or certification is required by law or regulation;

(e) The amounts received qualifying for exemption must be used for the activities for which the exemption is granted;

(f) Services must be available regardless of race, color, national origin, or ancestry; and

(g) The director of revenue shall have access to its books in order to determine whether the corporation is exempt from taxes within the intent of RCW 82.04.4297 and this section.

(2) The term "health or social welfare services" includes and is limited to:

(a) Mental health, drug, or alcoholism counseling or treatment;

(b) Family counseling;

(c) Health care services;

(d) Therapeutic, diagnostic, rehabilitative, or restorative services for the care of the sick, aged, or physically, developmentally, or emotionally-disabled individuals;

(e) Activities which are for the purpose of preventing or ameliorating juvenile delinquency or child abuse, including recreational activities for those purposes;

(f) Care of orphans or foster children;

(g) Day care of children;

(h) Employment development, training, and placement; and

(i) Legal services to the indigent. [1980 c 37 § 80; 1979 ex.s. c 196 § 6.]

Intent—1980 c 37: See note following RCW 82.04.4281.

Effective date—1979 ex.s. c 196: See note following RCW 82.04.240.

**Chapter 82.08
RETAIL SALES TAX**

| Sections | |
|------------|--|
| 82.08.0251 | Exemptions—Casual and isolated sales. |
| 82.08.0252 | Exemptions—Sales by persons taxable under chapter 82.16 RCW. |
| 82.08.0253 | Exemptions—Sale and distribution of newspapers. |
| 82.08.0254 | Exemptions—Nontaxable sales. |
| 82.08.0255 | Exemptions—Sales of motor vehicle and special fuel—Conditions. |
| 82.08.0256 | Exemptions—Sale of the operating property of a public utility to the state or a political subdivision. |
| 82.08.0257 | Exemptions—Auction sales of tangible personal property used in farming. |
| 82.08.0258 | Exemptions—Sales to federal corporations providing aid and relief. |
| 82.08.0259 | Exemptions—Sales of purebred livestock for breeding—Cattle and milk cows. |

- 82.08.0261 Exemptions—Sales of personal property for use connected with private or common carriers in interstate or foreign commerce.
- 82.08.0262 Exemptions—Sales of airplanes, locomotives, railroad cars, or watercraft for use in interstate or foreign commerce or outside the territorial waters of the state—Components thereof and of motor vehicles or trailers used for constructing, repairing, cleaning, etc.—Labor and services for constructing, repairing, cleaning, etc.
- 82.08.0263 Exemptions—Sales of motor vehicles and trailers for use in transporting persons or property in interstate or foreign commerce.
- 82.08.0264 Exemptions—Sales of motor vehicles, trailers, or campers to nonresidents for use outside the state.
- 82.08.0265 Exemptions—Sales to nonresidents of tangible personal property which becomes a component of property of the nonresident by installing, repairing, etc.—Labor and services for installing, repairing, etc.
- 82.08.0266 Exemptions—Sales of watercraft to nonresidents for use outside the state.
- 82.08.0267 Exemptions—Sales of poultry for producing poultry and poultry products for sale.
- 82.08.0268 Exemptions—Sales of machinery and implements for farming to nonresidents for use outside the state.
- 82.08.0269 Exemptions—Sales for use in states, territories, and possessions of the United States which are not contiguous to any other state.
- 82.08.0271 Exemptions—Sales to municipal corporations, the state, and political subdivisions of tangible personal property, labor and services on watershed protection and flood prevention contracts.
- 82.08.0272 Exemptions—Sales of semen for artificial insemination of livestock.
- 82.08.0273 Exemptions—Sales to nonresidents of tangible personal property for use outside the state—Permit—Fees—Penalties.
- 82.08.0274 Exemptions—Sales of form lumber to person engaged in constructing, repairing, etc., structures for consumers.
- 82.08.0275 Exemptions—Sales of and labor and service charges for mining, sorting, crushing, etc., of sand, gravel, and rock from county or city quarry for public road purposes.
- 82.08.0276 Exemptions—Sales of wearing apparel for use only as a sample for display for sale.
- 82.08.0277 Exemptions—Sales of pollen.
- 82.08.0278 Exemptions—Sales between political subdivisions resulting from annexation or incorporation.
- 82.08.0279 Exemptions—Renting or leasing of motor vehicles and trailers to a nonresident for use in the transportation of persons or property across state boundaries.
- 82.08.0281 Exemptions—Sales of prescription drugs.
- 82.08.0282 Exemptions—Sales of returnable containers for beverages and foods.
- 82.08.0283 Exemptions—Sales of insulin, prosthetic and orthotic devices, ostomic items, and medically prescribed oxygen.
- 82.08.0284 Exemptions—Sales of food products for human consumption.
- 82.08.0285 Exemptions—Sales of ferry vessels to the state or local governmental units—Components thereof—Labor and service charges.
- 82.08.0286 Exemptions—Alcohol for use as fuel. (Expires December 31, 1986.)
- 82.08.0287 Exemptions—Sales of vans as ride-sharing vehicles. (Expires January 1, 1988.)
- 82.08.030 Exemptions. (Repealed)

82.08.0251 Exemptions—Casual and isolated sales. The tax levied by RCW 82.08.020 shall not apply to casual and isolated sales of property or service, unless made by a person who is engaged in a business activity

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taxable under chapters 82.04 or 82.16 RCW: *Provided*, That the exemption provided by this section shall not be construed as providing any exemption from the tax imposed by chapter 82.12 RCW. [1980 c 37 § 19. Formerly RCW 82.08.030(1).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.08.0252 Exemptions—Sales by persons taxable under chapter 82.16 RCW. The tax levied by RCW 82.08.020 shall not apply to 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. [1980 c 37 § 20. Formerly RCW 82.08.030(2).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.08.0253 Exemptions—Sale and distribution of newspapers. The tax levied by RCW 82.08.020 shall not apply to the distribution and newsstand sale of newspapers. [1980 c 37 § 21. Formerly RCW 82.08.030(3).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.08.0254 Exemptions—Nontaxable sales. The tax levied by RCW 82.08.020 shall not apply to sales which the state is prohibited from taxing under the Constitution of this state or the Constitution or laws of the United States. [1980 c 37 § 22. Formerly RCW 82.08.030(4).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.08.0255 Exemptions—Sales of motor vehicle and special fuel—Conditions. The tax levied by RCW 82.08.020 shall not apply to sales of:

(1) Motor vehicle fuel used in aircraft by the manufacturer thereof for research, development, and testing purposes; and

(2) Motor vehicle and special fuel if:

(a) The fuel is purchased for the purpose of public transportation and the purchaser is entitled to a refund or an exemption under RCW 82.36.275 or 82.38.080(8); or

(b) The fuel is taxable under chapter 82.36 or 82.38 RCW. [1980 c 147 § 1; 1980 c 37 § 23. Formerly RCW 82.08.030(5).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.08.0256 Exemptions—Sale of the operating property of a public utility to the state or a political subdivision. The tax levied by RCW 82.08.020 shall not apply to 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 RCW 82.16-.010 (1), (2), (3), (4), (5), (6), (7), (8), (9), (10) or (11). [1980 c 37 § 24. Formerly RCW 82.08.030(6).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.08.0257 Exemptions—Auction sales of tangible personal property used in farming. The tax levied by RCW 82.08.020 shall not apply to 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. [1980 c 37 § 25. Formerly RCW 82.08.030(7).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.08.0258 Exemptions—Sales to federal corporations providing aid and relief. The tax levied by RCW 82.08.020 shall not apply to 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. [1980 c 37 § 26. Formerly RCW 82.08.030(8).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.08.0259 Exemptions—Sales of purebred livestock for breeding—Cattle and milk cows. The tax levied by RCW 82.08.020 shall not apply to 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. [1980 c 37 § 27. Formerly RCW 82.08.030(9).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.08.0261 Exemptions—Sales of personal property for use connected with private or common carriers in interstate or foreign commerce. The tax levied by RCW 82.08.020 shall not apply to sales of tangible personal property (other than the type referred to in RCW 82.08.0262) 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. [1980 c 37 § 28. Formerly RCW 82.08.030(10).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.08.0262 Exemptions—Sales of airplanes, locomotives, railroad cars, or watercraft for use in interstate or foreign commerce or outside the territorial waters of the state—Components thereof and of motor vehicles or trailers used for constructing, repairing, cleaning, etc.—Labor and services for constructing, repairing, cleaning, etc. The tax levied by RCW 82.08.020 shall not apply to 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. [1980 c 37 § 29. Formerly RCW 82.08.030(11).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.08.0263 Exemptions—Sales of motor vehicles and trailers for use in transporting persons or property in interstate or foreign commerce. The tax levied by RCW 82.08.020 shall not apply to 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 licensing pursuant to the provisions of RCW 46.16.160. [1980 c 37 § 30. Formerly RCW 82.08.030(12).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.08.0264 Exemptions—Sales of motor vehicles, trailers, or campers to nonresidents for use outside the state. The tax levied by RCW 82.08.020 shall not apply to sales of motor vehicles, trailers, or campers to nonresidents of this state for use outside of this state, even though delivery be made within this state, but only when (1) the vehicles, trailers, or campers 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 licensing pursuant to the provisions of RCW 46.16.160, or (2) said motor vehicles, trailers, or campers 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. [1980 c 37 § 31. Formerly RCW 82.08.030(13).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.08.0265 Exemptions—Sales to nonresidents of tangible personal property which becomes a component of property of the nonresident by installing, repairing, etc.—Labor and services for installing, repairing, etc. The tax levied by RCW 82.08.020 shall not apply to 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 section 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. [1980 c 37 § 32. Formerly RCW 82.08.030(14).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.08.0266 Exemptions—Sales of watercraft to nonresidents for use outside the state. The tax levied by RCW 82.08.020 shall not apply to 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 (1) the watercraft will not be used within this state for more than forty-five days and (2) 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. [1980 c 37 § 33. Formerly RCW 82.08.030(15).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.08.0267 Exemptions—Sales of poultry for producing poultry and poultry products for sale. The tax levied by RCW 82.08.020 shall not apply to sales of poultry for use in the production for sale of poultry or poultry products. [1980 c 37 § 34. Formerly RCW 82.08.030(16).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.08.0268 Exemptions—Sales of machinery and implements for farming to nonresidents for use outside the state. The tax levied by RCW 82.08.020 shall not apply to 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. [1980 c 37 § 35. Formerly RCW 82.08.030(17).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.08.0269 Exemptions—Sales for use in states, territories, and possessions of the United States which

are not contiguous to any other state. The tax levied by RCW 82.08.020 shall not apply to 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 non-contiguous states, territories and possessions. [1980 c 37 § 36. Formerly RCW 82.08.030(18).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.08.0271 Exemptions—Sales to municipal corporations, the state, and political subdivisions of tangible personal property, labor and services on watershed protection and flood prevention contracts. The tax levied by RCW 82.08.020 shall not apply to 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. [1980 c 37 § 37. Formerly RCW 82.08.030(19).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.08.0272 Exemptions—Sales of semen for artificial insemination of livestock. The tax levied by RCW 82.08.020 shall not apply to sales of semen for use in the artificial insemination of livestock. [1980 c 37 § 38. Formerly RCW 82.08.030(20).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.08.0273 Exemptions—Sales to nonresidents of tangible personal property for use outside the state—**Permit**—**Fees**—**Penalties**. The tax levied by RCW 82.08.020 shall not apply to 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 section must display a non-resident 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 section 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. [1980 c 37 § 39. Formerly RCW 82.08.030(21).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.08.0274 Exemptions—Sales of form lumber to person engaged in constructing, repairing, etc., structures for consumers. The tax levied by RCW 82.08.020 shall not apply to 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. [1980 c 37 § 40. Formerly RCW 82.08.030(22).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.08.0275 Exemptions—Sales of and labor and service charges for mining, sorting, crushing, etc., of sand, gravel, and rock from county or city quarry for public road purposes. The tax levied by RCW 82.08.020 shall not apply to 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 section 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 section. [1980 c 37 § 41. Formerly RCW 82.08.030(23).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.08.0276 Exemptions—Sales of wearing apparel for use only as a sample for display for sale. The tax levied by RCW 82.08.020 shall not apply to 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. [1980 c 37 § 42. Formerly RCW 82.08.030(24).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.08.0277 Exemptions—Sales of pollen. The tax levied by RCW 82.08.020 shall not apply to sales of pollen. [1980 c 37 § 43. Formerly RCW 82.08.030(25).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.08.0278 Exemptions—Sales between political subdivisions resulting from annexation or incorporation. The tax levied by RCW 82.08.020 shall not apply to 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. [1980 c 37 § 44. Formerly RCW 82.08.030(26).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.08.0279 Exemptions—Renting or leasing of motor vehicles and trailers to a nonresident for use in the transportation of persons or property across state boundaries. The tax levied by RCW 82.08.020 shall not apply to 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 non-residents 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. [1980 c 37 § 45. Formerly RCW 82.08.030(27).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.08.0281 Exemptions—Sales of prescription drugs. The tax levied by RCW 82.08.020 shall not apply to 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 (1) the written prescription to a pharmacist by a practitioner authorized by law of this state or laws of another jurisdiction to issue prescriptions, or (2) upon an oral prescription of such practitioner which is reduced promptly to writing and filed by a duly licensed pharmacist, or (3) 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 (4) 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. [1980 c 37 § 46. Formerly RCW 82.08.030(28).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.08.0282 Exemptions—**Sales of returnable containers for beverages and foods.** The tax levied by RCW 82.08.020 shall not apply to sales of returnable containers for beverages and foods, including but not limited to soft drinks, milk, beer, and mixers. [1980 c 37 § 47. Formerly RCW 82.08.030(29).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.08.0283 Exemptions—**Sales of insulin, prosthetic and orthotic devices, ostomic items, and medically prescribed oxygen.** The tax levied by RCW 82.08.020 shall not apply to sales of insulin; prosthetic and orthotic devices prescribed for an individual by a person licensed under chapters 18.25, 18.57, or 18.71 RCW; ostomic items; and medically prescribed oxygen. [1980 c 86 § 1; 1980 c 37 § 48. Formerly RCW 82.08.030(30).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.08.0284 Exemptions—**Sales of food products for human consumption.** The tax levied by RCW 82.08.020 shall not apply to 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, except for food products furnished as meals under a state administered nutrition program for the aged as provided for in the Older American Act (P.L. 95-478 Title III) and RCW 74.38.040(6), 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. [1980 c 86 § 3; 1980 c 37 § 49. Formerly RCW 82.08.030(31).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.08.0285 Exemptions—**Sales of ferry vessels to the state or local governmental units—Components thereof—Labor and service charges.** The tax levied by RCW 82.08.020 shall not apply to sales of ferry vessels to the state of Washington or to a local governmental unit in 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. [1980 c 37 § 50. Formerly RCW 82.08.030(32).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.08.0286 Exemptions—**Alcohol for use as fuel. (Expires December 31, 1986.)** The tax imposed by RCW 82.08.020 shall not apply to alcohol that is sold in this state for use solely as fuel in motor vehicles, farm implements and machines, or implements of husbandry. [1980 c 131 § 1.]

Expiration date—1980 c 131: "Sections 1 through 4 of this 1980 act shall expire December 31, 1986." [1980 c 131 § 6.] This applies to RCW 82.08.0286, 82.12.0281, 82.36.225, and 82.38.085.

82.08.0287 Exemptions—**Sales of vans as ride-sharing vehicles. (Expires January 1, 1988.)** The tax imposed by this chapter shall not apply to sales of vans which are to be used regularly as ride-sharing vehicles, as defined in RCW 46.74.010(3), by not less than seven persons, including passengers and driver. [1980 c 166 § 1.]

Severability—1980 c 166: "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." [1980 c 166 § 4.]

Expiration date—1980 c 166: "Sections 1 through 3 of this act shall expire on January 1, 1988." [1980 c 166 § 5.] This applies to RCW 82.08.0287, 82.12.0282, and 82.44.015.

82.08.030 Exemptions. [1979 ex.s. c 266 § 6; 1979 c 12 § 1. Prior: 1979 c 2 § 1 (Initiative Measure No. 345, approved November 8, 1977); 1977 ex.s. c 179 § 1; 1977 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.] Repealed by 1980 c 37 § 81.

Reviser's note: RCW 82.08.030 was separated into shorter sections by 1980 c 37. The following table indicates the current placement of the components of RCW 82.08.030.

| FORMERLY | NEW |
|---------------|------------|
| 82.08.030(1) | 82.08.0251 |
| 82.08.030(2) | 82.08.0252 |
| 82.08.030(3) | 82.08.0253 |
| 82.08.030(4) | 82.08.0254 |
| 82.08.030(5) | 82.08.0255 |
| 82.08.030(6) | 82.08.0256 |
| 82.08.030(7) | 82.08.0257 |
| 82.08.030(8) | 82.08.0258 |
| 82.08.030(9) | 82.08.0259 |
| 82.08.030(10) | 82.08.0261 |
| 82.08.030(11) | 82.08.0262 |
| 82.08.030(12) | 82.08.0263 |
| 82.08.030(13) | 82.08.0264 |
| 82.08.030(14) | 82.08.0265 |
| 82.08.030(15) | 82.08.0266 |
| 82.08.030(16) | 82.08.0267 |
| 82.08.030(17) | 82.08.0268 |
| 82.08.030(18) | 82.08.0269 |
| 82.08.030(19) | 82.08.0271 |
| 82.08.030(20) | 82.08.0272 |
| 82.08.030(21) | 82.08.0273 |
| 82.08.030(22) | 82.08.0274 |
| 82.08.030(23) | 82.08.0275 |
| 82.08.030(24) | 82.08.0276 |
| 82.08.030(25) | 82.08.0277 |
| 82.08.030(26) | 82.08.0278 |
| 82.08.030(27) | 82.08.0279 |
| 82.08.030(28) | 82.08.0281 |
| 82.08.030(29) | 82.08.0282 |
| 82.08.030(30) | 82.08.0283 |
| 82.08.030(31) | 82.08.0284 |
| 82.08.030(32) | 82.08.0285 |

Intent—1980 c 37: See note following RCW 82.04.4281.

**Chapter 82.12
USE TAX**

| Sections | |
|------------|---|
| 82.12.020 | Use tax imposed. |
| 82.12.0251 | Exemptions—Use by nonresident while temporarily within state of tangible personal property brought into state—Use by nonresident of motor vehicle licensed in another state—Use by resident of household goods, personal effects, and private automobiles acquired in another state while a resident. |
| 82.12.0252 | Exemptions—Use of tangible personal property upon which tax has been paid—Use of tangible |

| | |
|------------|--|
| 82.12.0253 | personal property acquired by a previous bailee from same bailor before June 9, 1961. |
| 82.12.0254 | Exemptions—Use of tangible personal property taxable under chapter 82.16 RCW. |
| 82.12.0255 | Exemptions—Use of airplanes, locomotives, railroad cars, or watercraft used in interstate or foreign commerce or outside the territorial waters of the state—Components thereof—Use of motor vehicle or trailer in the transportation of persons or property across state boundaries—Conditions—Use of motor vehicle or trailer under one-transit permit to point outside state. |
| 82.12.0256 | Exemptions—Nontaxable tangible personal property. |
| 82.12.0257 | Exemptions—Use of motor vehicle and special fuel—Conditions. |
| 82.12.0258 | Exemptions—Use of tangible personal property of the operating property of a public utility by state or political subdivision. |
| 82.12.0259 | Exemptions—Use of tangible personal property previously used in farming and purchased from farmer at auction. |
| 82.12.0261 | Exemptions—Use of tangible personal property by federal corporations providing aid and relief. |
| 82.12.0262 | Exemptions—Use of purebred livestock for breeding—Cattle and milk cows. |
| 82.12.0263 | Exemptions—Use of poultry for producing poultry and poultry products for sale. |
| 82.12.0264 | Exemptions—Use of fuel by extractor or manufacturer thereof. |
| 82.12.0265 | Exemptions—Use of dual-controlled motor vehicles by school for driver training. |
| 82.12.0266 | Exemptions—Use by bailee of tangible personal property consumed in research, development, etc., activities. |
| 82.12.0267 | Exemptions—Use by residents of motor vehicles and trailers acquired and used while members of the armed services and stationed outside the state. |
| 82.12.0268 | Exemptions—Use of semen in artificial insemination of livestock. |
| 82.12.0269 | Exemptions—Use of form lumber by persons engaged in constructing, repairing, etc., structures for consumers. |
| 82.12.0271 | Exemptions—Use of sand, gravel, or rock to extent of labor and service charges for mining, sorting, crushing, etc., thereof from county or city quarry for public road purposes. |
| 82.12.0272 | Exemptions—Use of wearing apparel only as a sample for display for sale. |
| 82.12.0273 | Exemptions—Use of tangible personal property in single trade shows. |
| 82.12.0274 | Exemptions—Use of pollen. |
| 82.12.0275 | Exemptions—Use of tangible personal property by political subdivision resulting from annexation or incorporation. |
| 82.12.0276 | Exemptions—Use of prescription drugs. |
| 82.12.0277 | Exemptions—Use of returnable containers for beverages and foods. |
| 82.12.0278 | Exemptions—Use of insulin, prosthetic and orthotic devices, ostomic items, and medically prescribed oxygen. |
| 82.12.0279 | Exemptions—Use of food products for human consumption. |
| 82.12.0281 | Exemptions—Use of ferry vessels by the state or local governmental units—Components thereof. |
| 82.12.0282 | Exemptions—Alcohol for use as fuel. (Expires December 31, 1986.) |
| 82.12.0283 | Exemptions—Use of vans as ride-sharing vehicles. (Expires January 1, 1988.) |
| 82.12.030 | Exemptions. (Repealed) |

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 RCW 82.12.0252, 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. [1980 c 37 § 79; 1977 ex.s. c 324 § 3; 1975-'76 2nd ex.s. c 130 § 2; 1975-'76 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.]

Intent—1980 c 37: See note following RCW 82.04.4281.

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.

82.12.0251 Exemptions—Use by nonresident while temporarily within state of tangible personal property brought into state—Use by nonresident of motor vehicle licensed in another state—Use by resident of household goods, personal effects, and private automobiles acquired in another state while a resident. The provisions of this chapter shall not apply 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. [1980 c 37 § 51. Formerly RCW 82.12.030(1).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.12.0252 Exemptions—Use of tangible personal property upon which tax has been paid—Use of tangible personal property acquired by a previous bailee from same bailor before June 9, 1961. The provisions of this chapter shall not apply 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. [1980 c 37 § 52. Formerly RCW 82.12.030(2).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.12.0253 Exemptions—Use of tangible personal property taxable under chapter 82.16 RCW. The provisions of this chapter shall not apply in respect to the use of any article of tangible personal property the sale of which is specifically taxable under chapter 82.16 RCW. [1980 c 37 § 53. Formerly RCW 82.12.030(3).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.12.0254 Exemptions—Use of airplanes, locomotives, railroad cars, or watercraft used in interstate or foreign commerce or outside the territorial waters of the state—Components thereof—Use of motor vehicle or trailer in the transportation of persons or property across state boundaries—Conditions—Use of motor vehicle or trailer under one-transit permit to point outside state. The provisions of this chapter shall not apply 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 licensing pursuant to RCW 46.16.160 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. [1980 c 37 § 54. Formerly RCW 82.12.030(4).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.12.0255 Exemptions—**Nontaxable tangible personal property.** The provisions of this chapter shall not apply 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. [1980 c 37 § 55. Formerly RCW 82.12.030(5).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.12.0256 Exemptions—**Use of motor vehicle and special fuel**—**Conditions.** The provisions of this chapter shall not apply in respect to the use of:

(1) Motor vehicle fuel used in aircraft by the manufacturer thereof for research, development, and testing purposes; and

(2) Motor vehicle and special fuel if:

(a) The fuel is used for the purpose of public transportation and the purchaser is entitled to a refund or an exemption under RCW 82.36.275 or 82.38.080(8); or

(b) The fuel is taxable under chapter 82.36 or 82.38 RCW: *Provided*, That the use of motor vehicle and special fuel upon which a refund of the applicable fuel tax is obtained shall not be exempt under this subsection (2)(b), and the director of licensing 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. [1980 c 147 § 2; 1980 c 37 § 56. Formerly RCW 82.12.030(6).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.12.0257 Exemptions—**Use of tangible personal property of the operating property of a public utility by state or political subdivision.** The provisions of this chapter shall not apply 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 RCW 82.16.010 (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), or (11). [1980 c 37 § 57. Formerly RCW 82.12.030(7).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.12.0258 Exemptions—**Use of tangible personal property previously used in farming and purchased from farmer at auction.** The provisions of this chapter shall not apply 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. [1980 c 37 § 58. Formerly RCW 82.12.030(8).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.12.0259 Exemptions—**Use of tangible personal property by federal corporations providing aid and relief.** The provisions of this chapter shall not apply 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. [1980 c 37 § 59. Formerly RCW 82.12.030(9).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.12.0261 Exemptions—**Use of purebred livestock for breeding**—**Cattle and milk cows.** The provisions of this chapter shall not apply 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. [1980 c 37 § 60. Formerly RCW 82.12.030(10).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.12.0262 Exemptions—Use of poultry for producing poultry and poultry products for sale. The provisions of this chapter shall not apply in respect to the use of poultry in the production for sale of poultry or poultry products. [1980 c 37 § 61. Formerly RCW 82.12.030(11).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.12.0263 Exemptions—Use of fuel by extractor or manufacturer thereof. The provisions of this chapter shall not apply 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. [1980 c 37 § 62. Formerly RCW 82.12.030(12).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.12.0264 Exemptions—Use of dual-controlled motor vehicles by school for driver training. The provisions of this chapter shall not apply 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 (1) the University of Washington, Washington State University, the regional universities, The Evergreen State College and the state community colleges or (2) 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 (3) 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). [1980 c 37 § 63. Formerly RCW 82.12.030(13).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.12.0265 Exemptions—Use by bailee of tangible personal property consumed in research, development, etc., activities. The provisions of this chapter shall not apply 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. [1980 c 37 § 64. Formerly RCW 82.12.030(14).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.12.0266 Exemptions—Use by residents of motor vehicles and trailers acquired and used while members of the armed services and stationed outside the state. The

provisions of this chapter shall not apply 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. [1980 c 37 § 65. Formerly RCW 82.12.030(15).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.12.0267 Exemptions—Use of semen in artificial insemination of livestock. The provisions of this chapter shall not apply in respect to the use of semen in the artificial insemination of livestock. [1980 c 37 § 66. Formerly RCW 82.12.030(16).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.12.0268 Exemptions—Use of form lumber by persons engaged in constructing, repairing, etc., structures for consumers. The provisions of this chapter shall not apply 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. [1980 c 37 § 67. Formerly RCW 82.12.030(17).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.12.0269 Exemptions—Use of sand, gravel, or rock to extent of labor and service charges for mining, sorting, crushing, etc., thereof from county or city quarry for public road purposes. The provisions of this chapter shall not apply 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 section 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 section. [1980 c 37 § 68. Formerly RCW 82.12.030(18).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.12.0271 Exemptions—Use of wearing apparel only as a sample for display for sale. The provisions of this chapter shall not apply 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. [1980 c 37 § 69. Formerly RCW 82.12.030(19).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.12.0272 Exemptions—Use of tangible personal property in single trade shows. The provisions of this chapter shall not apply 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. [1980 c 37 § 70. Formerly RCW 82.12.030(20).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.12.0273 Exemptions—Use of pollen. The provisions of this chapter shall not apply in respect to the use of pollen. [1980 c 37 § 71. Formerly RCW 82.12.030(21).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.12.0274 Exemptions—Use of tangible personal property by political subdivision resulting from annexation or incorporation. The provisions of this chapter shall not apply 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. [1980 c 37 § 72. Formerly RCW 82.12.030(22).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.12.0275 Exemptions—Use of prescription drugs. The provisions of this chapter shall not apply 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 (1) the written prescription to a pharmacist by a practitioner authorized by law of this state or laws of another jurisdiction to issue prescriptions, or (2) upon an oral prescription of such practitioner which is reduced promptly to writing and filed by a duly licensed pharmacist, or (3) 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 (4) 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. [1980 c 37 § 73. Formerly RCW 82.12.030(23).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.12.0276 Exemptions—Use of returnable containers for beverages and foods. The provisions of this chapter shall not apply in respect to the use of returnable containers for beverages and foods, including but not limited to soft drinks, milk, beer, and mixers. [1980 c 37 § 74. Formerly RCW 82.12.030(24).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.12.0277 Exemptions—Use of insulin, prosthetic and orthotic devices, ostomic items, and medically prescribed oxygen. The provisions of this chapter shall not apply in respect to the use of insulin; prosthetic and orthotic devices prescribed for an individual by a person licensed under chapters 18.25, 18.57, or 18.71 RCW; ostomic items; and medically prescribed oxygen. [1980 c 86 § 2; 1980 c 37 § 75. Formerly RCW 82.12.030(25).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.12.0278 Exemptions—Use of food products for human consumption. The provisions of this chapter shall not apply 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, except for food products furnished as meals under a state administered nutrition program for the aged as provided for in the Older American Act (P.L. 95-478 Title III) and RCW 74.38.040(6), 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. [1980 c 86 § 4; 1980 c 37 § 76. Formerly RCW 82.12.030(26).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.12.0279 Exemptions—Use of ferry vessels by the state or local governmental units—Components thereof. The provisions of this chapter shall not apply in respect to the use of ferry vessels of the state of Washington or of local governmental units in 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. [1980 c 37 § 77. Formerly RCW 82.12.030(27).]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.12.0281 Exemptions—Alcohol for use as fuel. (Expires December 31, 1986.) The tax imposed by RCW 82.12.020 shall not apply to alcohol that is sold in this state for use solely as fuel in motor vehicles, farm implements and machines, or implements of husbandry. [1980 c 131 § 2.]

Expiration date—1980 c 131: See note following RCW 82.08.0286.

82.12.0282 Exemptions—Use of vans as ride-sharing vehicles. (Expires January 1, 1988.) The tax imposed by this chapter shall not apply with respect to the use of vans used regularly as ride-sharing vehicles, as defined in RCW 46.74.010(3), by not less than seven persons, including passengers and driver, if the vans are exempt under RCW 82.44.015 for thirty-six consecutive months beginning within thirty days of application for exemption under this section. [1980 c 166 § 2.]

Severability—Expiration date—1980 c 166: See notes following RCW 82.08.0287.

82.12.030 Exemptions. [1979 ex.s. c 266 § 7; 1979 c 12 § 2. Prior: 1979 c 2 § 2 (Initiative Measure No. 345, approved November 8, 1977); 1977 ex.s. c 179 § 2; 1977 ex.s. c 169 § 111; 1977 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.] Repealed by 1980 c 37 § 81.

Reviser's note: RCW 82.12.030 was separated into shorter sections by 1980 c 37. The following table indicates the current placement of the components of RCW 82.12.030.

| FORMERLY | NEW |
|--------------------|------------|
| 82.12.030(1) | 82.12.0251 |
| 82.12.030(2) | 82.12.0252 |
| 82.12.030(3) | 82.12.0253 |

| FORMERLY | NEW |
|---------------------|------------|
| 82.12.030(4) | 82.12.0254 |
| 82.12.030(5) | 82.12.0255 |
| 82.12.030(6) | 82.12.0256 |
| 82.12.030(7) | 82.12.0257 |
| 82.12.030(8) | 82.12.0258 |
| 82.12.030(9) | 82.12.0259 |
| 82.12.030(10) | 82.12.0261 |
| 82.12.030(11) | 82.12.0262 |
| 82.12.030(12) | 82.12.0263 |
| 82.12.030(13) | 82.12.0264 |
| 82.12.030(14) | 82.12.0265 |
| 82.12.030(15) | 82.12.0266 |
| 82.12.030(16) | 82.12.0267 |
| 82.12.030(17) | 82.12.0268 |
| 82.12.030(18) | 82.12.0269 |
| 82.12.030(19) | 82.12.0271 |
| 82.12.030(20) | 82.12.0272 |
| 82.12.030(21) | 82.12.0273 |
| 82.12.030(22) | 82.12.0274 |
| 82.12.030(23) | 82.12.0275 |
| 82.12.030(24) | 82.12.0276 |
| 82.12.030(25) | 82.12.0277 |
| 82.12.030(26) | 82.12.0278 |
| 82.12.030(27) | 82.12.0279 |

Intent—1980 c 37: See note following RCW 82.04.4281.

Chapter 82.14
COUNTIES, CITIES AND METROPOLITAN
MUNICIPAL CORPORATIONS—RETAIL SALES
AND USE TAXES

Sections
82.14.045 Sales and use taxes for public transportation systems.

82.14.045 Sales and use taxes for public transportation systems. (1) The legislative body of any city pursuant to RCW 35.92.060, of any county which has created an unincorporated transportation benefit area pursuant to RCW 36.57.100 and 36.57.110, of any public transportation benefit area pursuant to RCW 36.57A.080 and 36.57A.090, of any county transportation authority established pursuant to chapter 36.57 RCW, and of any metropolitan municipal corporation within a class AA county pursuant to chapter 35.58 RCW, may, by resolution or ordinance for the sole purpose of providing funds for the operation, maintenance or capital needs of public transportation systems and in lieu of the excise taxes authorized by RCW 35.95.040, as now or hereafter amended, submit an authorizing proposition to the voters or include such authorization in a proposition to perform the function of public transportation and if approved by a majority of persons voting thereon, fix and impose a sales and use tax in accordance with the terms of this chapter: *Provided*, That no such legislative body shall impose such a sales and use tax without submitting such an authorizing proposition to the voters and obtaining the approval of a majority of persons voting thereon: *Provided further*, That where such a proposition is submitted by a county on behalf of an unincorporated transportation benefit area, it shall be voted upon by the voters residing within the boundaries of such unincorporated transportation benefit area and, if approved, the sales and use tax shall be imposed only within such area. Notwithstanding any provisions of this section to the

contrary, any county in which a county public transportation plan has been adopted pursuant to RCW 36.57-.070 and the voters of such county have authorized the imposition of a sales and use tax pursuant to the provisions of *RCW 82.14.047, section 10, chapter 167, Laws of 1974 ex. sess., prior to July 1, 1975, shall be authorized to fix and impose a sales and use tax as provided in this section at not to exceed the rate so authorized without additional approval of the voters of such county as otherwise required by this section.

The tax authorized pursuant to this section shall be in addition to the tax authorized by RCW 82.14.030 and shall be collected from those persons who are taxable by the state pursuant to chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within such city, public transportation benefit area, county, or metropolitan municipal corporation as the case may be. The rate of such tax shall be one-tenth, two-tenths, or three-tenths of one percent of the selling price (in the case of a sales tax) or value of the article used (in the case of a use tax) except that in the case of a metropolitan municipal corporation created pursuant to chapter 35.58 RCW within a class AA county, the rate of such tax shall be one-tenth, two-tenths, three-tenths, four-tenths, five-tenths, or six-tenths of one percent. The rate of such tax shall not exceed the rate authorized by the voters unless such increase shall be similarly approved.

(2) (a) In the event a metropolitan municipal corporation shall impose a sales and use tax pursuant to this chapter no city, county which has created an unincorporated transportation benefit area, public transportation benefit area authority, or county transportation authority wholly within such metropolitan municipal corporation shall be empowered to levy and/or collect taxes pursuant to RCW 35.58.273, 35.95.040 and/or 82.14.045, as now or hereafter amended, but nothing herein shall prevent such city or county from imposing sales and use taxes pursuant to any other authorization.

(b) In the event a county transportation authority shall impose a sales and use tax pursuant to this section, no city, county which has created an unincorporated transportation benefit area, public transportation benefit area, or metropolitan municipal corporation, located within the territory of the authority, shall be empowered to levy or collect taxes pursuant to RCW 35.58.273, 35.95.040, or 82.14.045, as now or hereafter amended.

(c) In the event a public transportation benefit area shall impose a sales and use tax pursuant to this section, no city, county which has created an unincorporated transportation benefit area, or metropolitan municipal corporation, located wholly or partly within the territory of the public transportation benefit area, shall be empowered to levy or collect taxes pursuant to RCW 35.58.273, 35.95.040 or 82.14.045, as now or hereafter amended.

(3) Any local sales and use tax revenue collected pursuant to this section by any city or by any county for transportation purposes pursuant to RCW 36.57.100 and 36.57.110 shall not be counted as locally generated tax revenues for the purposes of apportionment and distribution, in the manner prescribed by chapter 82.44

RCW, as now or hereafter amended, of the proceeds of the motor vehicle excise tax authorized pursuant to RCW 35.58.273, as now or hereafter amended. [1980 c 163 § 1; 1975 1st ex.s. c 270 § 6; 1971 ex.s. c 296 § 2.]

*Reviser's note: RCW 82.14.047 was repealed by 1975 1st ex.s. c 270 § 28 which took effect on July 1, 1975.

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

Legislative finding, declaration—1971 ex.s. c 296: "The legislature finds that adequate public transportation systems are necessary to the economic, industrial and cultural development of the urban areas of this state and the health, welfare and prosperity of persons who reside or are employed in such areas or who engage in business therein and such systems are increasingly essential to the functioning of the urban highways of the state. The legislature further finds and declares that fares and tolls for the use of public transportation systems cannot maintain such systems in solvent financial conditions and at the same time meet the need to serve those who cannot reasonably afford or use other forms of transportation. The legislature further finds and declares that additional and alternate means of financing adequate public transportation service are necessary for the cities, metropolitan municipal corporations and counties of this state which provide such service." [1971 ex.s. c 296 § 1.] This applies to RCW 82.14.045–82.14.060.

Severability—1971 ex.s. c 296: "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 296 § 5.] This applies to RCW 82.14.045–82.14.060.

Chapter 82.16

PUBLIC UTILITY TAX

Sections

82.16.055

Deductions relating to energy conservation or production from renewable resources.

82.16.055 Deductions relating to energy conservation or production from renewable resources. (1) In computing tax under this chapter there shall be deducted from the gross income:

(a) An amount equal to the cost of production at the plant for consumption within the state of Washington of:

(i) Electrical energy produced or generated from cogeneration as defined in RCW 82.35.020; and

(ii) Electrical energy or gas produced or generated from renewable energy resources such as solar energy, wind energy, hydroelectric energy, geothermal energy, wood, wood wastes, municipal wastes, agricultural products and wastes, and end-use waste heat; and

(b) Those amounts expended to improve consumers' efficiency of energy end use or to otherwise reduce the use of electrical energy or gas by the consumer.

(2) This section applies only to new facilities for the production or generation of energy from cogeneration or renewable energy resources or measures to improve the efficiency of energy end use on which construction or installation is begun after June 12, 1980, and before January 1, 1990.

(3) Deductions under subsection (1)(a) of this section shall be allowed for a period not to exceed thirty years after the project is placed in operation.

(4) Measures or projects encouraged under this section shall at the time they are placed in service be reasonably expected to save, produce, or generate energy at

a total incremental system cost per unit of energy delivered to end use which is less than or equal to the incremental system cost per unit of energy delivered to end use from similarly available conventional energy resources which utilize nuclear energy or fossil fuels and which the gas or electric utility could acquire to meet energy demand in the same time period.

(5) The department of revenue, after consultation with the utilities and transportation commission in the case of investor-owned utilities and the governing bodies of locally regulated utilities, shall determine the eligibility of individual projects and measures for deductions under this section. [1980 c 149 § 3.]

Legislative finding—1980 c 149: See note following RCW 80.28.025.

Utility rate structures encouraging energy conservation and production from renewable resources: RCW 80.28.025.

Chapter 82.20

TAX ON CONVEYANCES

Sections

82.20.065 Exemption—National forest townsite conveyances.

82.20.065 Exemption—National forest townsite conveyances. The tax provided for in RCW 82.20.010 shall not apply to a conveyance of a national forest townsite under the jurisdiction of the United States department of agriculture to a county nor to a conveyance by a county of lands by direct negotiation when the lands were, prior to acquisition by the county, a national forest townsite under the jurisdiction of the United States department of agriculture. [1980 c 90 § 2.]

Expiration date—1980 c 90: See note following RCW 36.34.350.
Conveyance of national forest townsite lands by counties: RCW 36.34.350.

Chapter 82.27

TAX ON FOOD FISH AND SHELLFISH

Sections

82.27.010 Definitions.
82.27.020 Excise tax imposed—Deduction—Measure of tax—Rates.
82.27.030 Exemptions.
82.27.040 Credit for taxes paid to another state.
82.27.050 Application of excise taxes' administrative provisions and definitions.
82.27.060 Payment of tax—Remittance—Returns.
82.27.070 Deposit of taxes.
82.27.080 Interstate agreements for reciprocity in taxation—Expiration of section.
82.27.900 Effective date—Implementation—1980 c 98.

Reviser's note: Before July 1, 1980, chapter 75.32 RCW imposed privilege fees and fish sales taxes on food fish and shellfish. 1980 c 98 repealed chapter 75.32 RCW but with a savings clause and authority to collect taxes due before July 1, 1980, as follows:

"(1) The following acts or parts of acts are each repealed:

(a) Section 1, chapter 71, Laws of 1965 ex. sess. and RCW 75.32.001;

(b) Section 25, chapter 327, Laws of 1977 ex. sess. and RCW 75.32.003;

(c) Section 75.32.020, chapter 12, Laws of 1955, section 19, chapter 327, Laws of 1977 ex. sess. and RCW 75.32.020;

(d) Section 75.32.030, chapter 12, Laws of 1955, section 12, chapter 212, Laws of 1955, section 1, chapter 10, Laws of 1963 ex. sess., section 20, chapter 327, Laws of 1977 ex. sess., section 1, chapter 203, Laws of 1979 ex. sess. and RCW 75.32.030;

(e) Section 23, chapter 327, Laws of 1977 ex. sess. and RCW 75.32.033;

(f) Section 24, chapter 327, Laws of 1977 ex. sess. and RCW 75.32.035;

(g) Section 13, chapter 212, Laws of 1955, section 21, chapter 327, Laws of 1977 ex. sess. and RCW 75.32.051;

(h) Section 22, chapter 327, Laws of 1977 ex. sess. and RCW 75.32.055;

(i) Section 26, chapter 327, Laws of 1977 ex. sess. and RCW 75.32.065;

(j) Section 75.32.080, chapter 12, Laws of 1955, section 27, chapter 327, Laws of 1977 ex. sess. and RCW 75.32.080;

(k) Section 75.32.090, chapter 12, Laws of 1955, section 1, chapter 9, Laws of 1963 ex. sess., section 1, chapter 193, Laws of 1967, section 28, chapter 327, Laws of 1977 ex. sess. and RCW 75.32.090;

(l) Section 2, chapter 9, Laws of 1963 ex. sess., section 29, chapter 327, Laws of 1977 ex. sess. and RCW 75.32.101;

(m) Section 75.32.110, chapter 12, Laws of 1955, section 30, chapter 327, Laws of 1977 ex. sess. and RCW 75.32.110;

(n) Section 31, chapter 327, Laws of 1977 ex. sess. and RCW 75.32.115;

(o) Section 75.32.120, chapter 12, Laws of 1955 and RCW 75.32-.120; and

(p) Section 75.32.130, chapter 12, Laws of 1955 and RCW 75.32.130.

(2) These repeals shall not be construed as affecting any existing right acquired under the statutes repealed or under any rule, regulation, or order adopted pursuant thereto; nor as affecting any proceeding instituted thereunder.

(3) Notwithstanding these repeals, for a period of four years from the effective date of this act, the director of fisheries may exercise the powers and duties vested in him by RCW 75.32.090 through 75.32.130 to administer, audit, assess, and collect any privilege fees and fish sales taxes which any person was liable to pay under chapter 75.32 RCW prior to the effective date of this act as though this act had never been enacted." [1980 c 98 § 10.] The effective date of this act is July 1, 1980.

82.27.010 Definitions. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Food fish and shellfish" has the meaning ascribed to it by RCW 75.04.040 and includes byproducts and also parts of food fish and shellfish, whether fresh, frozen, canned, or otherwise.

(2) "Commercial purposes" has the meaning ascribed to it by RCW 75.04.080.

(3) "Possession" means the control of food fish and shellfish by the owner and includes both actual and constructive possession. Constructive possession occurs when the person has legal ownership but not actual possession of the food fish or shellfish. [1980 c 98 § 1.]

82.27.020 Excise tax imposed—Deduction—Measure of tax—Rates. (1) In addition to all other taxes, licenses, or fees provided by law there is established an excise tax on the possession of food fish and shellfish for commercial purposes as provided in this chapter. The tax is levied upon and shall be collected from the owner of the food fish or shellfish whose possession constitutes the taxable event. The taxable event is the first possession by an owner after the food fish or shellfish have been landed. Processing and handling of food fish and shellfish by a person who is not the owner is not a taxable event to the processor or handler.

(2) A person in possession of food fish and shellfish and liable to this tax may deduct from the price paid to the person from which such food fish or shellfish (except oysters) are purchased an amount equal to a tax at one-half the rate levied in this section upon these products.

(3) The measure of the tax is the price paid by the first person in possession of the food fish or shellfish. If the food fish or shellfish are acquired other than by purchase or are purchased under conditions where the purchase price does not represent the value of the food fish or shellfish or these products are transferred outside the state without sale, the measure of the tax shall be determined as nearly as possible according to the selling price of similar products of like quality and character under rules adopted by the department of revenue.

(4) The tax shall be equal to the measure of the tax multiplied by the rates for food fish and shellfish as follows:

- (a) Chinook, coho, and chum salmon: Five percent.
- (b) Pink and sockeye salmon: Three percent.
- (c) Other food fish and shellfish, except oysters: Two percent.
- (d) Oysters: Seven one-hundredths of one percent. [1980 c 98 § 2.]

82.27.030 Exemptions. The tax imposed by RCW 82.27.020 shall not apply to: (1) Food fish or shellfish previously landed outside the state which is shipped into the state as (a) frozen food fish or frozen shellfish or (b) food fish or shellfish packaged for retail sales; (2) fresh net caught food fish to the extent provided under an interstate agreement entered into under RCW 82.27.080; and (3) the growing, processing, or dealing with food fish which are raised from eggs or fry and which are under the physical control of the grower at all times until being sold or harvested. [1980 c 98 § 3.]

82.27.040 Credit for taxes paid to another state. A credit shall be allowed against the tax imposed by RCW 82.27.020 upon food fish or shellfish with respect to any tax legally imposed and paid to another state by the taxpayer upon the same food fish or shellfish purchased in the other state. [1980 c 98 § 4.]

82.27.050 Application of excise taxes' administrative provisions and definitions. All of the provisions of chapters 82.02 and 82.32 RCW shall be applicable and have full force and effect with respect to taxes imposed under this chapter. The meaning attributed to words and phrases in chapter 82.04 RCW, insofar as applicable, shall have full force and effect with respect to taxes imposed under this chapter. [1980 c 98 § 5.]

82.27.060 Payment of tax—Remittance—Returns. The taxes levied by this chapter shall be due for payment monthly and remittance therefor shall be made on or before the fifteenth day of the month next succeeding the end of the month in which the tax accrued. The taxpayer on or before the due date shall make out a signed return, setting out such information as the department of revenue may require, including the gross

measure of the tax, any deductions, credits, or exemptions claimed, and the amount of tax due for the preceding monthly period, which amount shall be transmitted to the department along with the return.

The department may relieve any taxpayer from the obligation of filing a monthly return and may require the return to cover other periods, but in no event may periodic returns be filed for a period greater than one year. [1980 c 98 § 6.]

82.27.070 Deposit of taxes. All taxes collected by the department of revenue under this chapter shall be deposited in the state general fund. [1980 c 98 § 7.]

82.27.080 Interstate agreements for reciprocity in taxation—Expiration of section. The governor of Washington state is hereby authorized to enter into an agreement with other states having fish enhancement programs comparable to the programs existing in Washington state, which agreement shall provide for reciprocity in taxation of fresh net caught food fish shipped into the signatory states from other signatory states. This section shall expire on the one hundred eightieth day after July 1, 1980, if by such date Washington state has not entered into an agreement as authorized under *this act with at least one other state. [1980 c 98 § 13.]

***Reviser's note:** "this act", 1980 c 98, consists of chapter 82.27 RCW, the amendments to RCW 75.18.100 and 75.98.040, and the repeal of chapter 75.32 RCW.

82.27.900 Effective date—Implementation—1980 c 98. This act shall take effect on July 1, 1980. The director of revenue is authorized to immediately take such steps as are necessary to insure that this act is implemented on its effective date. [1980 c 98 § 11.]

Chapter 82.29A

LEASEHOLD EXCISE TAX

Sections

82.29A.135

Exemption for leasehold interests in land, buildings, machinery, etc., used to manufacture alcohol fuel—Exceptions—Limitations—Claims—Administrative rules.

82.29A.135 Exemption for leasehold interests in land, buildings, machinery, etc., used to manufacture alcohol fuel—Exceptions—Limitations—Claims—Administrative rules. (1) For the purposes of this section, "alcohol fuel" means any alcohol made from a product other than petroleum or natural gas, which is used alone or in combination with gasoline or other petroleum products for use as a fuel for motor vehicles, farm implements and machines or implements of husbandry.

(2) All leasehold interests in buildings, machinery, equipment, and other personal property which is used primarily for the manufacturing of alcohol fuel, the land upon which such property is located, and land that is reasonably necessary in the manufacturing of alcohol fuel, but not land necessary for growing of crops, which

together comprise a new alcohol manufacturing facility or an addition to an existing alcohol manufacturing facility, are exempt from leasehold taxes for a period of six years from the date on which the facility or the addition to the existing facility becomes operational.

For alcohol manufacturing facilities which produce alcohol for use as alcohol fuel and alcohol used for other purposes, the amount of the leasehold tax exemption shall be based upon an annually determined percentage of the total gallons of alcohol produced that is sold and used as alcohol fuel.

(3) Claims for exemptions authorized by this section shall be filed with the department of revenue on forms prescribed by the department of revenue and furnished by the department of revenue. Once filed, the exemption is valid for six years and shall not be renewed. The department of revenue shall verify and approve such claims as the department of revenue determines to be justified and in accordance with this section. No claims may be filed after December 31, 1986.

The department of revenue may promulgate such rules, pursuant to chapter 34.04 RCW, as are necessary to properly administer this section. [1980 c 157 § 2.]

Chapter 82.34

POLLUTION CONTROL FACILITIES—TAX EXEMPTIONS AND CREDITS

Sections

82.34.010 Definitions.

82.34.010 Definitions. Unless a different meaning is plainly required by the context, the following words as hereinafter used in this chapter shall have the following meanings:

(1) "Facility" shall mean an "air pollution control facility" or a "water pollution control facility" as herein defined: (a) "Air pollution control facility" includes any treatment works, control devices and disposal systems, machinery, equipment, structures, property or any part or accessories thereof, installed or acquired for the primary purpose of reducing, controlling or disposing of industrial waste which if released to the outdoor atmosphere could cause air pollution. "Air pollution control facility" shall not mean any motor vehicle air pollution control devices used to control the emission of air contaminants from any motor vehicle. (b) "Water pollution control facility" includes any treatment works, control device or disposal system, machinery, equipment, structures, property or any accessories thereof installed or acquired for the primary purpose of reducing, controlling or disposing of sewage and industrial waste which if released to a water course could cause water pollution: *Provided*, That the word "facility" shall not be construed to include any control device, machinery, equipment, structure, disposal system or other property installed or constructed: For a municipal corporation other than for coal-fired, steam electric generating plants constructed and operated pursuant to chapter 54.44 RCW for which an application for a certificate was

made no later than December 31, 1969, together with any air or water pollution control facility improvement which may be made hereafter to such plants; or for the primary purpose of connecting any commercial establishment with the waste collecting facilities of public or privately owned utilities.

(2) "Industrial waste" shall mean any liquid, gaseous, radioactive or solid waste substance or combinations thereof resulting from any process of industry, manufacture, trade or business, or from the development or recovery of any natural resources.

(3) "Treatment works" or "control device" shall mean any machinery, equipment, structure or property which is installed, constructed or acquired for the primary purpose of controlling air or water pollution and shall include, but shall not be limited to such devices as precipitators, scrubbers, towers, filters, baghouses, incinerators, evaporators, reservoirs, aerators used for the purpose of treating, stabilizing, incinerating, holding, removing or isolating sewage and industrial wastes.

(4) "Disposal system" shall mean any system containing treatment works or control devices and includes but is not limited to pipelines, outfalls, conduits, pumping stations, force mains, solids handling equipment, instrumentation and monitoring equipment, ducts, fans, vents, hoods and conveyors and all other construction, devices, appurtenances and facilities used for collecting or conducting, sewage and industrial waste to a point of disposal, treatment or isolation except that which is necessary to manufacture of products.

(5) "Certificate" shall mean a pollution control tax exemption and credit certificate for which application has been made not later than December 31, 1969: *Provided*, That with respect solely to a facility required to be installed in an industrial, manufacturing, waste disposal, utility, or other commercial establishment which is in operation or under construction as of July 30, 1967, such application will be deemed timely made if made within one year after the effective date of specific requirements for such facility promulgated by the appropriate control agency.

(6) "Appropriate control agency" shall mean the state water pollution control commission; or the operating local or regional air pollution control agency within whose jurisdiction a facility is or will be located, or the state air pollution control board, where the facility is not or will not be located within the area of an operating local or regional air pollution control agency, or where the state air pollution control board has assumed jurisdiction.

(7) "Department" shall mean the department of revenue. [1980 c 175 § 1; 1967 ex.s. c 139 § 1.]

Chapter 82.36

MOTOR VEHICLE FUEL TAX

Sections

82.36.225 Exemptions—Alcohol for use as fuel. (Expires December 31, 1986.)

82.36.280 Refunds for nonhighway use of fuel.

82.36.225 Exemptions—Alcohol for use as fuel. (Expires December 31, 1986.) Alcohol of any proof that is sold in this state for use as fuel in motor vehicles, farm implements and machines, or implements of husbandry is exempt from the motor vehicle fuel tax under this chapter. [1980 c 131 § 3.]

Expiration date—1980 c 131: See note following RCW 82.08.0286.

82.36.280 Refunds for nonhighway use of fuel. Any person who uses any motor vehicle fuel for the purpose of operating any internal combustion engine not used on or in conjunction with any motor vehicle licensed to be operated over and along any of the public highways, and as the motive power thereof, upon which motor vehicle fuel excise tax has been paid, shall be entitled to and shall receive a refund of the amount of the motor vehicle fuel excise tax paid on each gallon of motor vehicle fuel so used, whether such motor vehicle excise tax has been paid either directly to the vendor from whom the motor vehicle fuel was purchased or indirectly by adding the amount of such excise tax to the price of such fuel. No refund shall be made for motor vehicle fuel consumed by any motor vehicle as herein defined that is required to be registered and licensed as provided in chapter 46.16 RCW; and is operated over and along any public highway except that a refund shall be allowed for motor vehicle fuel consumed:

(1) In a motor vehicle owned by the United States that is operated off the public highways for official use;

(2) By auxiliary equipment not used for motive power, provided such consumption is accurately measured by a metering device that has been specifically approved by the department or is established by either of the following formulae:

(a) For fuel used in pumping fuel or heating oils by a power take-off unit on a delivery truck, refund shall be allowed claimant for tax paid on fuel purchased at the rate of three-fourths of one gallon for each one thousand gallons of fuel delivered: *Provided*, That claimant when presenting his claim to the department in accordance with the provisions of this chapter, shall provide to said claim, invoices of fuel oil delivered, or such other appropriate information as may be required by the department to substantiate his claim; or

(b) For fuel used in operating a power take-off unit on a cement mixer truck or load compactor on a garbage truck, claimant shall be allowed a refund of twenty-five percent of the tax paid on all fuel used in such a truck; and

(3) Before December 31, 1986, in a commercial vehicle as defined in RCW 46.04.140 or a farm vehicle as defined in RCW 46.04.181, if the motor vehicle fuel consumed contains nine and one-half percent or more by volume of alcohol and the commercial vehicle or farm vehicle is operated off the public highways of this state. [1980 c 131 § 5; 1972 ex.s. c 138 § 1; 1971 ex.s. c 36 § 1; 1969 ex.s. c 281 § 23; 1961 c 15 § 82.36.280. Prior: 1957 c 218 § 4; prior: 1951 c 263 § 1; 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.]

Effective date—1972 ex.s. c 138: "The effective date of this act shall be July 1, 1972." [1972 ex.s. c 138 § 6.] This applies to the 1972 ex.s. amendments to RCW 82.36.280, 82.38.080, 82.38.170, 82.38.180, and 82.38.190.

Chapter 82.38

SPECIAL FUEL TAX ACT

Sections

82.38.085 Exemptions—Alcohol for use as fuel. (Expires December 31, 1986.)

82.38.085 Exemptions—Alcohol for use as fuel. (Expires December 31, 1986.) Alcohol of any proof that is sold in this state for use as fuel in motor vehicles is exempt from the special fuel tax under this chapter. [1980 c 131 § 4.]

Expiration date—1980 c 131: See note following RCW 82.08.0286.

Chapter 82.44

MOTOR VEHICLE EXCISE

Sections

82.44.015 Ride-sharing vans excluded—Notice—Liability for tax. (Expires January 1, 1988.)

82.44.015 Ride-sharing vans excluded—Notice—Liability for tax. (Expires January 1, 1988.) For the purposes of this chapter, in addition to the exclusions under RCW 82.44.010, "motor vehicle" shall not include vans used regularly as ride-sharing vehicles, as defined in RCW 46.74.010(3), by not less than seven persons, including passengers and driver. The registered owner of one of these vans shall notify the department of licensing upon termination of regular use of the van as a ride-sharing vehicle and shall be liable for the tax imposed by this chapter, prorated on the remaining months for which the van is licensed. [1980 c 166 § 3.]

Severability—Expiration date—1980 c 166: See notes following RCW 82.08.0287.

Chapter 82.45

EXCISE TAX ON REAL ESTATE SALES

(Effective September 1, 1981)

Sections

82.45.010 "Sale" defined.
82.45.020 "Seller" defined.
82.45.030 "Selling price" defined.
82.45.032 "Real estate", "used mobile home" and "mobile home" defined.
82.45.035 Determining selling price of leases with option to purchase—Mining property—Payment, security when selling price not separately stated.
82.45.060 Tax imposed on sale of property—Rate.
82.45.070 Tax is lien on property—Enforcement.
82.45.080 Tax is seller's obligation—Choice of remedies.
82.45.090 Payment of tax—Evidence of payment—Recording.

- 82.45.105 Single family residential property, tax credit when subsequent transfer of within nine months for like property.
- 82.45.120 Standards for reporting, application and collection of tax—Real estate excise tax affidavit form, contents, use.
- 82.45.150 Applicability of general administrative provisions—Departmental rules, scope—Departmental audit.
- 82.45.180 Disposition of proceeds—Special account in general fund for support of common schools.

Purpose—1980 c 154: "It is the intent of this 1980 act to simplify the bookkeeping procedures for the state treasurer's office and for the school districts but not to impact the amount of revenues covered by this 1980 act to the various counties and other taxing districts." [1980 c 154 § 16.]

Effective dates—1980 c 154: "Sections 17, 18, and 19 of this 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 remainder of this act shall take effect on September 1, 1981." [1980 c 154 § 20.] Sections 17, 18 and 19, respectively, of 1980 c 154 are amendments of RCW 28A.47.073 and 28A.47.801 and an appropriation section, which being of a temporary nature, is not codified; for RCW disposition of remaining sections see footnotes below.

Savings—Disposition of certain funds—1980 c 154: "This 1980 act shall not be construed as invalidating, abating, or otherwise affecting any existing right acquired or any liability or obligation incurred under the provisions of the statutes amended or repealed, nor any process, proceeding, or judgment involving the assessment of any property or the levy or collection of any tax thereunder, nor the validity of any certificate of delinquency, tax deed or other instrument of sale or other proceeding thereunder, nor any criminal or civil proceeding instituted thereunder, nor any rule, regulation or order promulgated thereunder, nor any administrative action taken thereunder. Funds received by the county treasurer as payment of a tax liability incurred under a statute repealed by this 1980 act shall be paid and accounted for as provided in section 6 of this 1980 act." [1980 c 154 § 15.] Section 6 of this 1980 act is codified as RCW 82.45.180; sections amended by 1980 c 154 are RCW 28A.41.130, 28A.45.020 (recodified as 82.45.020), 28A.45.060 (recodified as 82.45.060), 28A.45.080 (recodified as 82.45.080), 28A.45.090 (recodified as 82.45.090), 28A.47.073, 28A.47.801, 36.33.110, 54.28.050, 54.28.090 and 76.12.120; and sections repealed by 1980 c 154 are RCW 28A.45.050 and 28A.45.100. Note in effective date section footnoted above that these amendments and repeals are not effective until September, 1981.

Severability—1980 c 154: "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." [1980 c 154 § 21.]

The above annotations apply to RCW 28A.41.130, 28A.41.143, 28A.47.073, 28A.47.801, 36.33.110, 54.28.050, 54.28.090, 76.12.120, 82.45.020, 82.45.060, 82.45.080, 82.45.090, 82.45.150, 82.45.180, and the repeal of RCW 28A.45.050 and 28A.45.100; section 19 of 1980 c 154 was an appropriation section, temporary in nature, hence uncodified.

82.45.010 "Sale" defined. As used in this chapter, the term "sale" shall have its ordinary meaning and shall include any conveyance, grant, assignment, quitclaim, or transfer of the ownership of or title to real property, including standing timber, or any estate or interest therein for a valuable consideration, and any contract for such conveyance, grant, assignment, quitclaim, or transfer, and any lease with an option to purchase real property, including standing timber, or any estate or interest therein or other contract under which possession of the property is given to the purchaser, or any other person by his direction, which title is retained by the vendor as security for the payment of the purchase price.

The term shall not include a transfer by gift, devise, or inheritance, a transfer of any leasehold interest other

than of the type mentioned above, a cancellation or forfeiture of a vendee's interest in a contract for the sale of real property, whether or not such contract contains a forfeiture clause, or deed in lieu of foreclosure of a mortgage or the assumption by a grantee of the balance owing on an obligation which is secured by a mortgage or deed in lieu of forfeiture of the vendee's interest in a contract of sale where no consideration passes otherwise or the partition of property by tenants in common by agreement or as the result of a court decree, any transfer, conveyance, or assignment of property or interest in property from one spouse to the other in accordance with the terms of a decree of divorce or in fulfillment of a property settlement agreement incident thereto, the assignment or other transfer of a vendor's interest in a contract for the sale of real property, even though accompanied by a conveyance of the vendor's interest in the real property involved, transfers by appropriation or decree in condemnation proceedings brought by the United States, the state or any political subdivision thereof, or a municipal corporation, a mortgage or other transfer of an interest in real property merely to secure a debt, or the assignment thereof, any transfer or conveyance made pursuant to an order of sale by the court in any mortgage or lien foreclosure proceeding or upon execution of a judgment, or deed in lieu of foreclosure to satisfy a mortgage, a conveyance to the federal housing administration or veterans administration by an authorized mortgagee made pursuant to a contract of insurance or guaranty with the federal housing administration or veterans administration, nor a transfer in compliance with the terms of any lease or contract upon which the tax as imposed by this chapter has been paid or where the lease or contract was entered into prior to the date this tax was first imposed, nor the sale of any grave or lot in an established cemetery, nor a sale by or to the United States, this state or any political subdivision thereof, or a municipal corporation of this state.

The term sale shall not include a transfer to a corporation which is wholly owned by the transferor, his spouse or his children: *Provided*, That if such transferee corporation or such transferor, his spouse, or his children voluntarily transfer the property or the stock, as the case may be, within five years of the exchange, excise taxes shall become due and payable on the original transfer as otherwise provided by law. [1970 ex.s. c 65 § 1; 1969 ex.s. c 223 § 28A.45.010. Prior: 1955 c 132 § 1; 1953 c 94 § 1; 1951 2nd ex.s. c 19 § 1; 1951 1st ex.s. c 11 § 7. Formerly RCW 28A.45.010, 28.45.010.]

Effective date—Severability—1970 ex.s. c 65: See notes following RCW 82.03.050.

82.45.020 "Seller" defined. As used in this chapter the term "seller," unless otherwise indicated by the context, shall mean any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, quasi municipal corporation, corporation, association, society, or any group of

individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise; but it shall not include the United States or the state of Washington. [1980 c 154 § 1; 1969 ex.s. c 223 § 28A.45.020. Prior: 1951 1st ex.s. c 11 § 6. Formerly RCW 28A.45.020, 28.45.020.]

~~Purpose—Effective date—Savings—Disposition of certain funds—Severability—1980 c 154: See notes following chapter digest.~~

82.45.030 "Selling price" defined. As used in this chapter, the term "selling price" means the consideration, including money or anything of value, paid or delivered or contracted to be paid or delivered in return for the transfer of the real property or estate or interest in real property, and shall include the amount of any lien, mortgage, contract indebtedness, or other incumbrance, either given to secure the purchase price, or any part thereof, or remaining unpaid on such property at the time of sale.

The term shall not include the amount of any outstanding lien or incumbrance in favor of the United States, the state, or a municipal corporation for the taxes, special benefits, or improvements. [1969 ex.s. c 223 § 28A.45.030. Prior: 1951 2nd ex.s. c 19 § 2; 1951 1st ex.s. c 11 § 8. Formerly RCW 28A.45.030, 28.45.030.]

82.45.032 "Real estate", "used mobile home" and "mobile home" defined. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Real estate" means real property but includes used mobile homes.

(2) "Used mobile home" means a mobile home which has been previously sold at retail and the immediately preceding sale has already been subjected to tax under chapter 82.08 RCW, or which has been previously used and the immediately preceding use has already been subjected to tax under chapter 82.12 RCW, and which has substantially lost its identity as a mobile unit by virtue of its being fixed in location upon land owned or leased by the owner of the mobile home and placed on a foundation (posts or blocks) with fixed pipe connections with sewer, water, and other utilities.

(3) "Mobile home" means a mobile home as defined by RCW 46.04.302, as now or hereafter amended. [1979 ex.s. c 266 § 1. Formerly RCW 28A.45.032.]

82.45.035 Determining selling price of leases with option to purchase—Mining property—Payment, security when selling price not separately stated. The state department of revenue shall provide by rule for the determination of the selling price in the case of leases with option to purchase, and shall further provide that the tax shall not be payable, where inequity will otherwise result, until and unless the option is exercised and accepted. A conditional sale of mining property in which the buyer has the right to terminate the contract at any time, and a lease and option to buy mining property in which the lessee-buyer has the right to terminate the

lease and option at any time, shall be taxable at the time of execution only on the consideration received by the seller or lessor for execution of such contract, but the rule shall further provide that the tax due on any additional consideration paid by the buyer and received by the seller shall be paid to the county treasurer (1) at the time of termination, or (2) at the time that all of the consideration due to the seller has been paid and the transaction is completed except for the delivery of the deed to the buyer, or (3) at the time when the buyer unequivocally exercises an option to purchase the property, whichever of the three events occurs first.

The term "mining property" means property containing or believed to contain metallic minerals and sold or leased under terms which require the purchaser or lessor to conduct exploration or mining work thereon and for no other use. The term "metallic minerals" does not include clays, coal, sand and gravel, peat, gypsite, or stone, including limestone.

The state department of revenue shall further provide by rule for cases where the selling price is not separately stated or is not ascertainable at the time of sale, for the payment of the tax at a time when the selling price is ascertained, in which case suitable security may be required for payment of the tax, and may further provide for the determination of the selling price by an appraisal by the county assessor, based on the full and true market value, which appraisal shall be prima facie evidence of the selling price of the real property. [1969 ex.s. c 223 § 28A.45.035. Prior: 1967 ex.s. c 149 § 1; 1959 c 208 § 1; 1951 2nd ex.s. c 19 § 3. Formerly RCW 28A.45.035, 28.45.035.]

82.45.060 Tax imposed on sale of property—Rate. There is imposed an excise tax upon each sale of real property at the rate of one percent of the selling price. [1980 c 154 § 2; 1969 ex.s. c 223 § 28A.45.060. Prior: 1951 1st ex.s. c 11 § 5. Formerly RCW 28A.45.060, 28.45.060.]

~~Purpose—Effective date—Savings—Disposition of certain funds—Severability—1980 c 154: See notes following chapter digest.~~

82.45.070 Tax is lien on property—Enforcement. The tax herein provided for and any interest or penalties thereon shall be a specific lien upon each piece of real property sold from the time of sale until the tax shall have been paid, which lien may be enforced in the manner prescribed for the foreclosure of mortgages. [1969 ex.s. c 223 § 28A.45.070. Prior: 1951 1st ex.s. c 11 § 9. Formerly RCW 28A.45.070, 28.45.070.]

82.45.080 Tax is seller's obligation—Choice of remedies. The tax levied under this chapter shall be the obligation of the seller and the department of revenue may, at the department's option, enforce the obligation through an action of debt against the seller or the department may proceed in the manner prescribed for the foreclosure of mortgages and resort to one course of enforcement shall not be an election not to pursue the other. [1980 c 154 § 3; 1969 ex.s. c 223 § 28A.45.080.]

Prior: 1951 1st ex.s. c 11 § 10. Formerly RCW 28A.45-.080, 28.45.080.]

Purpose—**Effective date**—**Savings**—**Disposition of certain funds**—**Severability**—1980 c 154: See notes following chapter digest.

82.45.090 Payment of tax—Evidence of payment—Recording. The tax imposed by this chapter shall be paid to and collected by the treasurer of the county within which is located the real property which was sold, said treasurer acting as agent for the state. The county treasurer shall cause a stamp evidencing satisfaction of the lien to be affixed to the instrument of sale or conveyance prior to its recording or to the real estate excise tax affidavit in the case of used mobile home sales. A receipt issued by the county treasurer for the payment of the tax imposed under this chapter shall be evidence of the satisfaction of the lien imposed hereunder and may be recorded in the manner prescribed for recording satisfactions of mortgages. No instrument of sale or conveyance evidencing a sale subject to the tax shall be accepted by the county auditor for filing or recording until the tax shall have been paid and the stamp affixed thereto; in case the tax is not due on the transfer, the instrument shall not be so accepted until suitable notation of such fact has been made on the instrument by the treasurer. [1980 c 154 § 4; 1979 ex.s. c 266 § 2; 1969 ex.s. c 223 § 28A.45.090. Prior: 1951 2nd ex.s. c 19 § 4; 1951 1st ex.s. c 11 § 11. Formerly RCW 28A.45.090, 28.45.090.]

Purpose—**Effective date**—**Savings**—**Disposition of certain funds**—**Severability**—1980 c 154: See notes following chapter digest.

Applicability of general administrative provisions—Departmental rules, scope—Departmental audit: RCW 82.45.150.

82.45.105 Single family residential property, tax credit when subsequent transfer of within nine months for like property. Where single family residential property is being transferred as the entire or part consideration for the purchase of other single family residential property and a licensed real estate broker or one of the parties to the transaction accepts transfer of said property, a credit for the amount of the tax paid at the time of the transfer to the broker or party shall be allowed toward the amount of the tax due upon a subsequent transfer of the property by the broker or party if said transfer is made within nine months of the transfer to the broker or party: *Provided*, That if the tax which would be due on the subsequent transfer from the broker or party is greater than the tax paid for the prior transfer to said broker or party the difference shall be paid, but if the tax initially paid is greater than the amount of the tax which would be due on the subsequent transfer no refund shall be allowed. [1969 ex.s. c 223 § 28A.45.105. Prior: 1967 ex.s. c 149 § 61. Formerly RCW 28A.45-.105, 28.45.105.]

82.45.120 Standards for reporting, application and collection of tax—Real estate excise tax affidavit

[1980 RCW Supp—page 330]

form, contents, use. The department of revenue is authorized and shall prescribe minimum standards for uniformity in reporting, application, and collection of the real estate excise tax imposed by this chapter.

The department of revenue shall also prescribe a real estate excise tax affidavit form which shall contain, at least, the following:

- (1) Identification of the seller and purchaser;
- (2) Description of the property involved including the tax parcel or account number(s);
- (3) Date of sale, type of instrument of sale, nature of transfer;
- (4) Gross sales price;
- (5) Whether or not the land is classified or designated as forest land under chapter 84.33 RCW; or classified as open space land, farm and agricultural land, or timberland under chapter 84.34 RCW; and
- (6) Signatures of both the buyer and seller, under oath.

Each county shall use the affidavit form prescribed by the department of revenue. [1980 c 134 § 1; 1969 ex.s. c 223 § 28A.45.120. Prior: 1967 ex.s. c 149 § 3. Formerly RCW 28A.45.120, 28.45.120.]

82.45.150 Applicability of general administrative provisions—Departmental rules, scope—Departmental audit. All of chapter 82.32 RCW, except RCW 82.32.030, 82.32.140, and 82.32.270 applies to the tax imposed by this chapter, in addition to any other provisions of law for the payment and enforcement of the tax imposed by this chapter. The department of revenue shall by rule provide for the effective administration of this chapter. The rules shall specify the form and content of an affidavit to be filed with the county treasurer by the seller. The rules shall also include a manual which defines transactions which are taxable under this chapter. The department of revenue shall annually conduct a random audit of taxable transactions and affidavits filed under this chapter. [1980 c 154 § 5.]

Purpose—**Effective date**—**Savings**—**Disposition of certain funds**—**Severability**—1980 c 154: See notes following chapter digest.

82.45.180 Disposition of proceeds—Special account in general fund for support of common schools. The county treasurer shall place one percent of the proceeds of the tax imposed by this chapter in the county current expense fund to defray costs of collection and shall pay over to the state treasurer and account to the department of revenue for the remainder of the proceeds at the same time the county treasurer remits funds to the state under RCW 84.56.280. The state treasurer shall deposit the proceeds in a special account in the general fund, hereby created. All funds in said special account shall be used exclusively for the support of the common schools. [1980 c 154 § 6.]

Purpose—**Effective date**—**Savings**—**Disposition of certain funds**—**Severability**—1980 c 154: See notes following chapter digest.

**Title 84
PROPERTY TAXES**

Chapters

- 84.33 Timber and forest lands.**
- 84.34 Open space, agricultural, and timber lands—
Current use assessment—Conservation
futures.**
- 84.36 Exemptions.**
- 84.40 Listing of property.**

Chapter 84.33

TIMBER AND FOREST LANDS

Sections

- 84.33.075 Excise tax on harvesters of timber—Exemption for
certain nonprofit organizations, associations or
corporations.**
- 84.33.120 Forest land valuation—Grade values—Determi-
nation—Certification—Use—Notice of con-
tinuance—Appeals—Removal of
classification—Compensating tax.**
- 84.33.140 Forest land valuation—Notation of forest land des-
ignation upon assessment and tax rolls—Notice of
continuance—Removal of designation—Com-
pensating tax.**

**84.33.075 Excise tax on harvesters of timber—
Exemption for certain nonprofit organizations, associa-
tions or corporations.** The excise tax imposed by RCW
84.33.071 shall not apply to any timber harvested by a
nonprofit organization, association, or corporation from
forest lands owned by it, where such lands are exempt
from property taxes under RCW 84.36.030, and where
all of the income and receipts of the nonprofit organiza-
tion, association, or corporation derived from such tim-
ber sales are used solely for the expense of promoting,
operating, and maintaining youth programs which are
equally available to all, regardless of race, color, na-
tional origin, ancestry, or religious belief.

In order to determine whether the harvesting of tim-
ber by a nonprofit organization, association, or corpora-
tion is exempt, the director of the department of revenue
shall have access to its books.

For the purposes of this section, a "nonprofit" organi-
zation, association, or corporation is one: (1) Which
pays no part of its income directly or indirectly to its
members, stockholders, officers, directors, or trustees
except in the form of services rendered by the organiza-
tion, association, or corporation in accordance with its
purposes and bylaws; and (2) which pays salary or com-
pensation to its officers only for actual services rendered,
and at levels comparable to the salary or compensation
of like positions within the public services of the state.
[1980 c 134 § 6.]

**84.33.120 Forest land valuation—Grade val-
ues—Determination—Certification—Use—
Notice of continuance—Appeals—Removal of class-
ification—Compensating tax.** (1) On or before March
1, 1972 and January 1 of each year commencing with

1973, subject to review by the ways and means commit-
tees of the house and senate and after compliance with
the procedures set forth in chapter 34.04 RCW for
adoption of rules, the department of revenue shall deter-
mine the true and fair value of each grade of bare forest
land and shall certify such values to the county asses-
sors. Such values shall be determined on the basis that
the only use of the land is for growing and harvesting
timber, and other potential uses shall not be considered
in fixing such values.

(2) In preparing the assessment rolls as of January 1,
1971 for taxes payable in 1972, the assessor shall list
each parcel of forest land at a value not to exceed the
value used on the 1970 assessment roll for such land. In
preparing the assessment roll for 1972 and each year
thereafter, the assessor shall enter as the true and fair
value of each parcel of forest land the appropriate grade
value certified to him by the department of revenue, and
he shall compute the assessed value of such land by us-
ing the same assessment ratio he applies generally in
computing the assessed value of other property in his
county. In preparing the assessment roll for 1975 and
each year thereafter, the assessor shall assess and value
as classified forest land all forest land that is not then
designated pursuant to subsection (3) of RCW 84.33-
.120 or 84.33.130 and shall make a notation of such
classification upon the assessment and tax rolls. On or
before January 15 of the first year in which such nota-
tion is made, the assessor shall mail notice by certified
mail to the owner that such land has been classified as
forest land and is subject to the compensating tax im-
posed by this section. If the owner desires not to have
such land assessed and valued as classified forest land,
he shall give the assessor written notice thereof on or
before March 31 of such year and the assessor shall re-
move from the assessment and tax rolls the classification
notation entered pursuant to this subsection, and shall
thereafter assess and value such land in the manner pro-
vided by law other than this chapter 84.33 RCW.

(3) In any year commencing with 1972, an owner of
land which is assessed and valued by the assessor other
than pursuant to the procedures set forth in RCW 84-
.33.110 and subsections (1) and (2) of this section, and
which has, in the immediately preceding year, been as-
sessed and valued by the assessor as forest land, may
appeal to the county board of equalization by filing an
application with the board in the manner prescribed in
subsection (2) of RCW 84.33.130. The county board
shall afford the applicant an opportunity to be heard if
the application so requests and shall act upon the appli-
cation in the manner prescribed in subsection (3) of
RCW 84.33.130.

(4) Land that has been assessed and valued as classi-
fied forest land as of any year commencing with 1975
assessment year or earlier shall continue to be so as-
sessed and valued until removal of classification by the
assessor only upon the occurrence of one of the following
events:

(a) Receipt of notice from the owner to remove such
land from classification as forest land;

(b) Sale or transfer to an ownership making such land exempt from ad valorem taxation;

(c) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that, because of actions taken by the owner, such land is no longer primarily devoted to and used for growing and harvesting timber;

(d) Determination that a higher and better use exists for such land than growing and harvesting timber after giving the owner written notice and an opportunity to be heard;

(e) Sale or transfer of all or a portion of such land to a new owner, unless the new owner has signed a notice of forest land classification continuance. The signed notice of continuance shall be attached to the real estate excise tax affidavit provided for in RCW 28A.45.120, as now or hereafter amended. The notice of continuance shall be on a form prepared by the department of revenue. If the notice of continuance is not signed by the new owner and attached to the real estate excise tax affidavit, all compensating taxes calculated pursuant to subsection (6) of this section shall become due and payable by the seller or transferor at time of sale. The county auditor shall not accept an instrument of conveyance of classified forest land for filing or recording unless the new owner has signed the notice of continuance or the compensating tax has been paid. The seller, transferor, or new owner may appeal the new assessed valuation calculated under subsection (6) of this section to the county board of equalization. Jurisdiction is hereby conferred on the county board of equalization to hear these appeals.

The assessor shall remove classification pursuant to subsections (c) or (d) above prior to September 30 of the year prior to the assessment year for which termination of classification is to be effective. Removal of classification as forest land upon occurrence of subsection (a), (b), (d), or (e) above shall apply only to the land affected, and upon occurrence of subsection (c) shall apply only to the actual area of land no longer primarily devoted to and used for growing and harvesting timber: *Provided*, That any remaining classified forest land meets necessary definitions of forest land pursuant to RCW 84.33.100 as now or hereafter amended.

(5) Within thirty days after such removal of classification as forest land, the assessor shall notify the owner in writing setting forth the reasons for such removal. The owner of such land shall thereupon have the right to apply for designation of such land as forest land pursuant to subsection (3) of this section or RCW 84.33.130. The seller, transferor, or owner may appeal such removal to the county board of equalization.

(6) Unless the owner successfully applies for designation of such land or unless the removal is reversed on appeal, notation of removal from classification shall immediately be made upon the assessment and tax rolls, and commencing on January 1 of the year following the year in which the assessor made such notation, such land shall be assessed on the same basis as real property is assessed generally in that county. Except as provided in subsection (8) of this section and unless the assessor

shall not have mailed notice of classification pursuant to subsection (2) of this section, a compensating tax shall be imposed which shall be due and payable to the county treasurer thirty days after the owner is notified of the amount of the compensating tax. As soon as possible, the assessor shall compute the amount of such compensating tax and mail notice to the owner of the amount thereof and the date on which payment is due. The amount of such compensating tax shall be equal to:

(a) The difference, if any, between the amount of tax last levied on such land as forest land and an amount equal to the new assessed valuation of such land multiplied by the dollar rate of the last levy extended against such land, multiplied by

(b) A number, in no event greater than ten, equal to the number of years, commencing with assessment year 1975, for which such land was assessed and valued as classified forest land.

(7) Compensating tax, together with applicable interest thereon, shall become a lien on such land which shall attach at the time such land is removed from classification as forest land and shall have priority to and shall be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation or responsibility to or with which such land may become charged or liable. Such lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes as provided in RCW 84.64.050. Any compensating tax unpaid on its due date shall thereupon become delinquent. From the date of delinquency until paid, interest shall be charged at the same rate applied by law to delinquent ad valorem property taxes.

(8) The compensating tax specified in subsection (6) of this section shall not be imposed if the removal of classification as forest land pursuant to subsection (4) of this section resulted solely from:

(a) Transfer to a government entity in exchange for other forest land located within the state of Washington;

(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) Sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in such land.

(9) With respect to any land that has been designated prior to May 6, 1974, pursuant to subsection (3) of RCW 84.33.120 or 84.33.130, the assessor may, prior to January 1, 1975, on his own motion or pursuant to petition by the owner, change, without imposition of the compensating tax provided under RCW 84.33.140, the status of such designated land to classified forest land. [1980 c 134 § 2; 1974 ex.s. c 187 § 5; 1972 ex.s. c 148 § 5; 1971 ex.s. c 294 § 12.]

Severability—1974 ex.s. c 187: See note following RCW 84.33.071.

84.33.140 Forest land valuation—Notation of forest land designation upon assessment and tax rolls—Notice of continuance—Removal of designation—

Compensating tax. (1) When land has been designated as forest land pursuant to subsection (3) of RCW 84.33.120 or 84.33.130, a notation of such designation shall be made each year upon the assessment and tax rolls, a copy of the notice of approval together with the legal description or assessor's tax lot numbers for such land shall, at the expense of the applicant, be filed by the assessor in the same manner as deeds are recorded, and such land shall be graded and valued pursuant to RCW 84.33.110 and 84.33.120 until removal of such designation by the assessor upon occurrence of any of the following:

(a) Receipt of notice from the owner to remove such designation;

(b) Sale or transfer to an ownership making such land exempt from ad valorem taxation;

(c) Sale or transfer of all or a portion of such land to a new owner, unless the new owner has signed a notice of forest land designation continuance. The signed notice of continuance shall be attached to the real estate excise tax affidavit provided for in RCW 28A.45.120, as now or hereafter amended. The notice of continuance shall be on a form prepared by the department of revenue. If the notice of continuance is not signed by the new owner and attached to the real estate excise tax affidavit, all compensating taxes calculated pursuant to subsection (3) of this section shall become due and payable by the seller or transferor at time of sale. The county auditor shall not accept an instrument of conveyance of designated forest land for filing or recording unless the new owner has signed the notice of continuance or the compensating tax has been paid. The seller, transferor, or new owner may appeal the new assessed valuation calculated under subsection (3) of this section to the county board of equalization. Jurisdiction is hereby conferred on the county board of equalization to hear these appeals;

(d) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that (i) such land is no longer primarily devoted to and used for growing and harvesting timber, (ii) such owner has failed to comply with a final administrative or judicial order with respect to a violation of the restocking, forest management, fire protection, insect and disease control and forest debris provisions of Title 76 RCW or any applicable regulations thereunder, or (iii) restocking has not occurred to the extent or within the time specified in the application for designation of such land.

Removal of designation upon occurrence of any of subsections (a) through (c) above shall apply only to the land affected, and upon occurrence of subsection (d) shall apply only to the actual area of land no longer primarily devoted to and used for growing and harvesting timber, without regard to other land that may have been included in the same application and approval for designation: *Provided*, That any remaining designated forest land meets necessary definitions of forest land pursuant to RCW 84.33.100 as now or hereafter amended.

(2) Within thirty days after such removal of designation of forest land, the assessor shall notify the owner in writing, setting forth the reasons for such removal. The

seller, transferor, or owner may appeal such removal to the county board of equalization.

(3) Unless the removal is reversed on appeal a copy of the notice of removal with notation of the action, if any, upon appeal, together with the legal description or assessor's tax lot numbers for the land removed from designation shall, at the expense of the applicant, be filed by the assessor in the same manner as deeds are recorded, and commencing on January 1 of the year following the year in which the assessor mailed such notice, such land shall be assessed on the same basis as real property is assessed generally in that county. Except as provided in subsection (5) of this section, a compensating tax shall be imposed which shall be due and payable to the county treasurer thirty days after the owner is notified of the amount of the compensating tax. As soon as possible, the assessor shall compute the amount of such compensating tax and mail notice to the owner of the amount thereof and the date on which payment is due. The amount of such compensating tax shall be equal to:

(a) The difference between the amount of tax last levied on such land as forest land and an amount equal to the new assessed valuation of such land multiplied by the dollar rate of the last levy extended against such land, multiplied by

(b) A number, in no event greater than ten, equal to the number of years for which such land was designated as forest land.

(4) Compensating tax, together with applicable interest thereon, shall become a lien on such land which shall attach at the time such land is removed from designation as forest land and shall have priority to and shall be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation or responsibility to or with which such land may become charged or liable. Such lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes as provided in RCW 84.64.050. Any compensating tax unpaid on its due date shall thereupon become delinquent. From the date of delinquency until paid, interest shall be charged at the same rate applied by law to delinquent ad valorem property taxes.

(5) The compensating tax specified in subsection (3) of this section shall not be imposed if the removal of designation pursuant to subsection (1) of this section resulted solely from:

(a) Transfer to a government entity in exchange for other forest land located within the state of Washington;

(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) Sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in such land. [1980 c 134 § 3; 1974 ex.s. c 187 § 7; 1973 1st ex.s. c 195 § 93; 1972 ex.s. c 148 § 6; 1971 ex.s. c 294 § 14.]

Severability—1974 ex.s. c 187: See note following RCW 84.33.071.

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Chapter 84.34

OPEN SPACE, AGRICULTURAL, AND TIMBER LANDS—CURRENT USE ASSESSMENT—CONSERVATION FUTURES

Sections

| | |
|-----------|--|
| 84.34.100 | Payment of additional tax, penalties, and/or interest. |
| 84.34.108 | Removal of designation—Factors—Notice of continuance—Additional tax—Lien—Delinquencies—Exemptions. |

84.34.100 Payment of additional tax, penalties, and/or interest. The additional tax, penalties, and/or interest provided by RCW 84.34.070 and 84.34.080 shall be payable in full thirty days after the date which the treasurer's statement therefor is rendered. Such additional tax when collected shall be distributed by the county treasurer in the same manner in which current taxes applicable to the subject land are distributed. [1980 c 134 § 4; 1970 ex.s. c 87 § 10.]

84.34.108 Removal of designation—Factors—Notice of continuance—Additional tax—Lien—Delinquencies—Exemptions. (1) When land has once been classified under this chapter, a notation of such designation shall be made each year upon the assessment and tax rolls and such land shall be valued pursuant to RCW 84.34.060 or 84.34.065 until removal of all or a portion of such designation by the assessor upon occurrence of any of the following:

(a) Receipt of notice from the owner to remove all or a portion of such designation;

(b) Sale or transfer to an ownership making all or a portion of such land exempt from ad valorem taxation;

(c) Sale or transfer of all or a portion of such land to a new owner, unless the new owner has signed a notice of classification continuance. The signed notice of continuance shall be attached to the real estate excise tax affidavit provided for in RCW 28A.45.120, as now or hereafter amended. The notice of continuance shall be on a form prepared by the department of revenue. If the notice of continuance is not signed by the new owner and attached to the real estate excise tax affidavit, all additional taxes calculated pursuant to subsection (3) of this section shall become due and payable by the seller or transferor at time of sale. The county auditor shall not accept an instrument of conveyance of classified land for filing or recording unless the new owner has signed the notice of continuance or the additional tax has been paid. The seller, transferor, or new owner may appeal the new assessed valuation calculated under subsection (3) of this section to the county board of equalization. Jurisdiction is hereby conferred on the county board of equalization to hear these appeals;

(d) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that all or a portion of such land is no longer primarily

devoted to and used for the purposes under which it was granted classification.

(2) Within thirty days after such removal of all or a portion of such land from current use classification, the assessor shall notify the owner in writing, setting forth the reasons for such removal. The seller, transferor, or owner may appeal such removal to the county board of equalization.

(3) Unless the removal is reversed on appeal, the assessor shall revalue the affected land with reference to full market value on the date of removal from classification. Both the assessed valuation before and after the removal of classification shall be listed and taxes shall be allocated according to that part of the year to which each assessed valuation applies. Except as provided in subsection (5) of this section, an additional tax shall be imposed which shall be due and payable to the county treasurer thirty days after the owner is notified of the amount of the additional tax. As soon as possible, the assessor shall compute the amount of such an additional tax and the treasurer shall mail notice to the owner of the amount thereof and the date on which payment is due. The amount of such additional tax shall be equal to:

(a) The difference between the property tax paid as "open space land", "farm and agricultural land", or "timber land" and the amount of property tax otherwise due and payable for the seven years last past had the land not been so classified; plus

(b) Interest upon the amounts of such additional tax paid at the same statutory rate charged on delinquent property taxes from the dates on which such additional tax could have been paid without penalty if the land had been assessed at a value without regard to this chapter.

(4) Additional tax, together with applicable interest thereon, shall become a lien on such land which shall attach at the time such land is removed from current use classification under this chapter and shall have priority to and shall be fully paid and satisfied before any recognition, mortgage, judgment, debt, obligation or responsibility to or with which such land may become charged or liable. Such lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes as provided in RCW 84.64.050 now or as hereafter amended. Any additional tax unpaid on its due date shall thereupon become delinquent. From the date of delinquency until paid, interest shall be charged at the same rate applied by law to delinquent ad valorem property taxes.

(5) The additional tax specified in subsection (3) of this section shall not be imposed if the removal of designation pursuant to subsection (1) of this section resulted solely from:

(a) Transfer to a government entity in exchange for other land located within the state of Washington;

(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) Sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in such land.

(d) A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than by virtue of the act of the landowner changing the use of such property.

(e) Official action by an agency of the state of Washington or by the county or city within which the land is located which disallows the present use of such land.

(f) Transfer to a church and such land would qualify for property tax exemption pursuant to RCW 84.36.020. [1980 c 134 § 5; 1973 1st ex.s. c 212 § 12.]

Chapter 84.36 EXEMPTIONS

Sections

| | |
|-----------|--|
| 84.36.379 | Residences—Property tax exemption—Findings. |
| 84.36.381 | Residences—Property tax exemptions—Qualifications. |
| 84.36.383 | Residences—Definitions. |
| 84.36.387 | Residences—Claimants—Penalty for falsification—Reduction by remainderman. |
| 84.36.410 | Repealed. |
| 84.36.490 | Land, buildings, machinery, etc., used to manufacture alcohol fuel—Exceptions—Limitations—Claims—Administrative rules. |

84.36.379 Residences—Property tax exemption—Findings. The legislature finds that the property tax exemption authorized by Article VII, section 10 of the state Constitution should be made available on the basis of a retired person's ability to pay property taxes. The legislature further finds that the best measure of a retired person's ability to pay taxes is that person's disposable income as defined in RCW 84.36.383(6). [1980 c 185 § 3.]

Applicability—1980 c 185: "Except for the amendment to RCW 84.36.381(2) by this 1980 act, sections 3 through 5 of this 1980 act are effective for property taxes due in 1982 and thereafter." [1980 c 185 § 7.] The reference to "sections 3 through 5 of this 1980 act" refers to RCW 84.36.379 and to the 1980 amendments to RCW 84.36.381 and 84.36.383.

84.36.381 Residences—Property tax exemptions—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:

(1) 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: *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: *Provided further*, That confinement of the person to a hospital or nursing home shall

not disqualify the claim of exemption if the residence is temporarily unoccupied or if the residence is occupied by a spouse and/or a person financially dependent on the claimant for support;

(2) The person claiming the exemption must have owned, at the time of filing, in fee, as a life estate, 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 or owned by cotenants shall be deemed to be owned by each spouse or cotenant, and any lease for life shall be deemed a life estate;

(3) The person claiming the exemption must have been sixty-one 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: *Provided*, That any surviving spouse of a person who was receiving an exemption at the time of the person's death shall qualify if the surviving spouse is fifty-seven years of age or older and otherwise meets the requirements of this section;

(4) The amount that the person shall be exempt from an obligation to pay shall be calculated on the basis of combined disposable income, as defined in RCW 84.36.383. If the person claiming the exemption was retired for two months or more of the preceding year, the combined disposable income of such person shall be calculated by multiplying the average monthly combined disposable income of such person during the months such person was retired by twelve.

(5) (a) A person who otherwise qualifies under this section and has a combined disposable income of fourteen thousand dollars or less shall be exempt from all excess property taxes; and in addition

(b) A person who otherwise qualifies under this section and has a combined disposable income of ten thousand dollars or less shall be exempt from all regular property taxes on up to fifteen thousand dollars of valuation of his or her residence. [1980 c 185 § 4; 1979 ex.s. c 214 § 1; 1977 ex.s. c 268 § 1; 1975 1st ex.s. c 291 § 14; 1974 ex.s. c 182 § 1.]

Applicability—1980 c 185: See note following RCW 84.36.379.

Applicability—1979 ex.s. c 214: "The exemption created by sections 1 through 4 of this act shall be effective starting with property taxes levied in calendar year 1979 for collection in calendar year 1980. The former exemption created by the law amended shall continue to be effective with respect to property taxes levied in calendar year 1978 for collection in calendar year 1979. [1979 ex.s. c 214 § 10.] Sections 1 through 4 of this act consist of the amendments by 1979 ex.s. c 214 to RCW 84.36.381, 84.36.383, 84.36.385, and 84.36.389.

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.]

84.36.383 Residences—Definitions. As used in RCW 84.36.381 through 84.36.389, except where the context clearly indicates a different meaning:

(1) The term "residence" shall mean a single family dwelling unit whether such unit be separate or part of a multiunit dwelling, including the land on which such dwelling stands not to exceed one acre. The term shall also include a share ownership in a cooperative housing association, corporation, or partnership if the person claiming exemption can establish that his or her share represents the specific unit or portion of such structure in which he or she resides. The term shall also include a single family dwelling situated upon lands the fee of which is vested in the United States or any instrumentality thereof including an Indian tribe or in the state of Washington, and notwithstanding the provisions of RCW 84.04.080, 84.04.090 or 84.40.250, such a residence shall be deemed real property.

(2) The term "real property" except for the purposes of chapters 84.56 and 84.60 RCW, shall also include a mobile home which has substantially lost its identity as a mobile unit by virtue of its being fixed in location upon land owned or leased by the owner of the mobile home and placed on a foundation (posts or blocks) with fixed pipe, connections with sewer, water, or other utilities.

(3) The term "preceding calendar year" shall mean the calendar year preceding the year in which the claim for exemption is to be made.

(4) "Department" shall mean the state department of revenue.

(5) "Combined disposable income" means the disposable income of the person claiming the exemption, plus the disposable income of his or her spouse, and the disposable income of each cotenant occupying the residence for the preceding calendar year.

(6) "Disposable income" means adjusted gross income as defined in the federal internal revenue code, as amended prior to January 1, 1980, plus all of the following items to the extent they are not included in or have been deducted from adjusted gross income:

- (a) Capital gains;
- (b) Amounts deducted for loss;
- (c) Amounts deducted for depreciation;
- (d) Pension and annuity receipts;
- (e) Military pay and benefits;
- (f) Veterans benefits;
- (g) Federal social security act and railroad retirement benefits;
- (h) Dividend receipts; and
- (i) Interest received on state and municipal bonds.

(7) "Cotenant" means a person who resides with the person claiming the exemption and who has an ownership interest in the residence. [1980 c 185 § 5; 1979 ex.s. c 214 § 2; 1975 1st ex.s. c 291 § 15; 1974 ex.s. c 182 § 2.]

Applicability—1980 c 185: See note following RCW 84.36.379.

Applicability—1979 ex.s. c 214: See note following RCW 84.36.381.

Effective dates—Severability—1975 1st ex.s. c 291: See notes following RCW 82.04.050.

84.36.387 Residences—Claimants—Penalty for falsification—Reduction by remainderman. (1) All claims for exemption shall be made and signed by the person entitled to the exemption, by his or her attorney in fact or in the event the residence of such person is under mortgage or purchase contract requiring accumulation of reserves out of which the holder of the mortgage or contract is required to pay real estate taxes, by such holder or by the owner, either before two witnesses or the county assessor or his deputy in the county where the real property is located: *Provided*, That if a claim for exemption is made by a person living in a cooperative housing association, corporation, or partnership, such claim shall be made and signed by the person entitled to the exemption and by the authorized agent of such cooperative.

(2) If the taxpayer is unable to submit his own claim, the claim shall be submitted by a duly authorized agent or by a guardian or other person charged with the care of the person or property of such taxpayer.

(3) Any person signing a false claim with the intent to defraud or evade the payment of any tax shall be guilty of the offense of perjury.

(4) The tax liability of a cooperative housing association, corporation, or partnership shall be reduced by the amount of tax exemption to which a claimant residing therein is entitled and such cooperative shall reduce any amount owed by the claimant to the cooperative by such exact amount of tax exemption or, if no amount be owed, the cooperative shall make payment to the claimant of such exact amount of exemption.

(5) A remainderman or other person who would have otherwise paid the tax on real property that is the subject of an exemption granted under RCW 84.36.381 for an estate for life shall reduce the amount which would have been payable by the life tenant to the remainderman or other person to the extent of the exemption. If no amount is owed or separately stated as an obligation between these persons, the remainderman or other person shall make payment to the life tenant in the exact amount of the exemption. [1980 c 185 § 6; 1975 1st ex.s. c 291 § 16; 1974 ex.s. c 182 § 4.]

Effective dates—Severability—1975 1st ex.s. c 291: See notes following RCW 82.04.050.

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

84.36.490 Land, buildings, machinery, etc., used to manufacture alcohol fuel—Exceptions—Limitations—Claims—Administrative rules. (1) For the purposes of this section, "alcohol fuel" means any alcohol made from a product other than petroleum or natural gas, which is used alone or in combination with gasoline or other petroleum products for use as a fuel for motor vehicles, farm implements and machines or implements of husbandry.

(2) All buildings, machinery, equipment, and other personal property which is used primarily for the manufacturing of alcohol fuel, the land upon which such property is located, and land that is reasonably necessary

in the manufacturing of alcohol fuel, but not land necessary for growing of crops, which together comprise a new alcohol manufacturing facility or an addition to an existing alcohol manufacturing facility, are exempt from property taxation for the six assessment years following the date on which the facility or the addition to the existing facility becomes operational.

For alcohol manufacturing facilities which produce alcohol for use as alcohol fuel and alcohol used for other purposes, the amount of the property tax exemption shall be based upon an annually determined percentage of the total gallons of alcohol produced that is sold or used as alcohol fuel.

(3) Claims for exemptions 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 is valid for six years and shall not be renewed. The assessor shall verify and approve such claims as the assessor determines to be justified and in accordance with this section. No claims may be filed after December 31, 1986.

The department of revenue may promulgate such rules, pursuant to chapter 34.04 RCW, as are necessary to properly administer this section. [1980 c 157 § 1.]

**Chapter 84.40
LISTING OF PROPERTY**

| | |
|------------|--|
| Sections | |
| 84.40.030 | Basis of valuation—Leasehold estates—Real property—Criterion of value. |
| 84.40.0302 | Notice of assessment rule in RCW 84.40.030(4)—Expiration of section. |

84.40.030 Basis of valuation—Leasehold estates—Real property—Criterion of value. All property shall be valued at one hundred percent of its true and fair value in money and assessed on the same basis unless specifically provided otherwise by law.

Taxable leasehold estates shall be valued at such price as they would bring at a fair, voluntary sale for cash without any deductions for any indebtedness owed including rentals to be paid. Notwithstanding any other provisions of this section or of any other statute, when the value of any taxable leasehold estate created prior to January 1, 1971 is being determined for assessment years prior to the assessment year 1973, there shall be deducted from what would otherwise be the value thereof the present worth of the rentals and other consideration which may be required of the lessee by the lessor for the unexpired term thereof: *Provided*, That the foregoing provisions of this sentence shall not apply to any extension or renewal, made after December 31, 1970 of the term of any such estate, or to any such estate after the date, if any, provided for in the agreement for rental renegotiation.

The true and fair value of real property for taxation purposes (including property upon which there is a coal or other mine, or stone or other quarry) shall be based upon the following criteria:

(1) Any sales of the property being appraised or similar property with respect to sales made within the past five years. The appraisal shall take into consideration political restrictions such as zoning as well as physical and environmental influences. The appraisal shall also take into account, (a) in the use of sales by real estate contract as similar sales, the extent, if any, to which the stated selling price has been increased by reason of the down payment, interest rate, or other financing terms; and (b) the extent to which the sale of a similar property actually represents the general effective market demand for property of such type, in the geographical area in which such property is located. Sales involving deed releases or similar seller-developer financing arrangements shall not be used as sales of similar property.

(2) In addition to sales as defined in subsection (1), consideration may be given to cost, cost less depreciation, reconstruction cost less depreciation, or capitalization of income that would be derived from prudent use of the property. In the case of property of a complex nature, or being used under terms of a franchise from a public agency, or operating as a public utility, or property not having a record of sale within five years and not having a significant number of sales of similar property in the general area, the provisions of this subsection (2) shall be the dominant factors in valuation. When provisions of this subsection (2) are relied upon for establishing values the property owner shall be advised upon request of the factors used in arriving at such value.

(3) In valuing any tract or parcel of real property, the value of the land, exclusive of structures thereon shall be determined; also the value of structures thereon, but the valuation shall not exceed the value of the total property as it exists. In valuing agricultural land, growing crops shall be excluded.

(4) In valuing any building with an unconventional heating, cooling, domestic water heating or electrical system before December 31, 1987, the value placed on the building shall not exceed the value which would be placed on the building if it had a conventional system. [1980 c 155 § 2. Prior: 1973 1st ex.s. c 195 § 96; 1973 1st ex.s. c 187 § 1; 1972 ex.s. c 125 § 2; 1971 ex.s. c 288 § 1; 1971 ex.s. c 43 § 1; 1961 c 15 § 84.40.030; prior: 1939 c 206 § 15; 1925 ex.s. c 130 § 52; 1919 c 142 § 4; 1913 c 140 § 1; 1897 c 71 § 42; 1893 c 124 § 44; 1891 c 140 § 44; 1890 p 547 § 48; RRS § 11135. FORMER PART OF SECTION: 1939 c 116 § 1, part, now codified in RCW 84.40.220.]

Intent—1980 c 155: "The legislature finds that certain residences have been subjected to excessive property taxes solely because the residences are utilizing energy saving systems. It is the intent of the legislature to prevent homeowners who install energy saving heat pumps, heating, cooling, domestic water heating and electrical systems, including active and passive solar energy systems, from being subjected to unfair property tax burdens.

The legislature further finds that the use of solar and other renewable energy resources can make a useful contribution to meeting future energy needs and that encouragement of the use of these energy resources is in the best interests of the people of the state." [1980 c 155 § 1.]

Effective date—Applicability—1980 c 155: "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 and shall be effective for

assessments made in 1980 and years thereafter." [1980 c 155 § 8.] The effective date of 1980 c 155 was April 1, 1980.

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Severability—Construction—1973 1st ex.s. c 187: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this 1973 amendatory act, or the application of the provision to other persons or circumstances is not affected: *Provided*, That if the leasehold in lieu excise tax imposed by section 4 of this 1973 amendatory act is held invalid, the entirety of the act, except for section 3 and section 15, shall be null and void." [1973 1st ex.s. c 187 § 13.] This applies to chapter 82.29 RCW, to RCW 84.36.450, 84.36.455, 84.36.460, and to the amendment to RCW 84.40.030 by 1973 1st ex.s. c 187. Section 4 is codified as RCW 82.29.030, section 3 as RCW 82.29.020 and section 15 as RCW 84.36.460.

Severability—1972 ex.s. c 125: See note following RCW 84.40.045.

Savings—1971 ex.s. c 288: "The amendment or repeal of any statutes by this 1971 amendatory act shall not be construed as invalidating, abating or otherwise affecting any existing right acquired or any liability or obligation incurred under the provisions of the statutes amended or repealed. Such amendment or repeals shall not affect the right of any person to make a claim for exemption during the calendar year 1971 pursuant to RCW 84.36.128." [1971 ex.s. c 288 § 12.]

Severability—1971 ex.s. c 288: "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 288 § 28.]

Severability—1971 ex.s. c 43: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 43 § 6.]

Prospective and retroactive application—1971 ex.s. c 43: See RCW 84.40A.020.

84.40.0302 Notice of assessment rule in RCW 84.40.030(4)—Expiration of section. Notice of the assessment rule provided in RCW 84.40.030(4) shall be included on or with all property tax statements and revaluation notices. This section shall expire December 31, 1987. [1980 c 155 § 3.]

Intent—Effective date—Applicability—1980 c 155: See notes following RCW 84.40.030.

Title 85

DIKING AND DRAINAGE

Chapters

85.06 Drainage districts and miscellaneous drainage provisions.

Chapter 85.06

DRAINAGE DISTRICTS AND MISCELLANEOUS DRAINAGE PROVISIONS

Sections

85.06.380 Compensation and expenses of commissioners.

85.06.380 Compensation and expenses of commissioners. In performing their duties under the provisions of this title the board and members of the board of drainage commissioners shall receive as compensation up

to twenty-five dollars for each day or major part thereof for all necessary services actually performed, in connection with their duties, including the attendance at meetings: *Provided*, That such services and compensation are allowed and approved at a regular meeting of the board. Upon the submission of a copy, certified by the secretary, of the extracts of the relevant minutes of the board showing such approval, to the county auditor, the same shall be paid as other claims against the district are paid. Each commissioner is entitled to reimbursement for reasonable expenses actually incurred in connection with such business, including his subsistence and lodging, while away from the commissioner's place of residence and mileage for use of a privately-owned vehicle in accordance with chapter 42.24 RCW. [1980 c 23 § 2; 1959 c 209 § 1; 1947 c 76 § 1; 1907 c 62 § 1; 1895 c 115 § 38; RRS § 4338. Formerly RCW 85.04.600.]

Title 86

FLOOD CONTROL

Chapters

86.18 Flood control contributions.

Chapter 86.18

FLOOD CONTROL CONTRIBUTIONS

(Formerly: Flood control contribution fund)

Sections

86.18.020 Repealed.
86.18.030 Conditions and limitations on expenditures and contributions from appropriations—Warrants.

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

86.18.030 Conditions and limitations on expenditures and contributions from appropriations—Warrants. Funds shall be expended and contributions made to a political subdivision of the state from flood control appropriations only after:

(1) The project for which the funds are to be used has been approved by the state supervisor of flood control in accordance with the regulatory provisions of chapter 86.16 RCW.

(2) Engineering studies and plans have been made and filed with the county engineer of the county in which the project is located, or the county engineers of all counties in which the project is located, if it is located in more than one county.

(3) The estimate of cost of acquisition of necessary lands, rights of way and construction of the project or improvements, together with adequate supporting data have been completed and filed with the state supervisor of flood control.

(4) A comprehensive plan for the area involved has been completed and filed with the state supervisor of flood control.

(5) The political subdivision desiring a contribution has made an application for a contribution to the state supervisor of flood control showing the estimated cost of the project and the requested contribution.

(6) Federal funds are available for contribution for payment of a portion of the cost of the project.

The director of the department of water resources is authorized to determine when these conditions have been met and to request the proper warrant for the state's contribution. Contributions to a political subdivision for a specific project shall not exceed fifty percent of the cost of acquisition of necessary lands and rights of way, and construction of the project or works of improvement. [1980 c 32 § 12; 1967 ex.s. c 136 § 3.]

Title 87 IRRIGATION

Chapters

87.03 Irrigation districts generally.

Chapter 87.03

IRRIGATION DISTRICTS GENERALLY

Sections

87.03.460 Compensation and expenses of directors, officers, employees.

87.03.460 Compensation and expenses of directors, officers, employees. The directors shall each receive not to exceed forty dollars per day in attending meetings and while performing other services for the district, to be fixed by resolution and entered in the minutes of their proceedings, and in addition thereto their reasonable expenses in accordance with chapter 42.24 RCW as now existing or hereafter amended. The board shall fix the compensation of the secretary and all other employees. The board shall, upon the petition of at least fifty or a majority of the electors, submit to the electors at any general district election, a schedule of salaries and fees to be paid hereunder. The petition shall be presented to the board twenty days before a general election, and the result thereof shall be determined and declared as other elections. [1980 c 23 § 1; 1979 c 83 § 3; 1975 1st ex.s. c 163 § 2; 1965 c 16 § 1; 1951 c 189 § 1; 1919 c 180 § 14; 1917 c 162 § 8; 1895 c 165 § 23; 1889-90 p 692 § 39; RRS § 7456. Formerly RCW 87.08.100.]

Title 90

WATER RIGHTS—ENVIRONMENT

Chapters

90.03 Water code—1917 act.

90.48 Water pollution control.

90.50 Water pollution control facilities—
Financing.

90.58 Shoreline management act of 1971.

Chapter 90.03

WATER CODE—1917 ACT

Sections

90.03.247 Minimum flows and levels—Departmental authority exclusive—Other recommendations considered—Report of minimum flow setting program.

90.03.247 Minimum flows and levels—Departmental authority exclusive—Other recommendations considered—Report of minimum flow setting program. Whenever an application for a permit to make beneficial use of public waters is approved relating to a stream or other water body for which minimum flows or levels have been adopted and are in effect at the time of approval, the permit shall be conditioned to protect the levels or flows. No agency may establish minimum flows and levels or similar water flow or level restrictions for any stream or lake of the state other than the department of ecology whose authority to establish is exclusive, as provided in chapter 90.03 RCW and RCW 90.22.010 and 90.54.040. The provisions of other statutes, including but not limited to RCW 75.20.100 and chapter 43.21C RCW, may not be interpreted in a manner that is inconsistent with this section. In establishing such minimum flows, levels, or similar restrictions, the department shall, during all stages of development by the department of ecology of minimum flow proposals, consult with, and carefully consider the recommendations of, the department of fisheries, the state game commission, the state energy office, the department of agriculture, and representatives of the affected Indian tribes. Nothing herein shall preclude the department of fisheries, the game commission, the energy office, or the department of agriculture from presenting its views on minimum flow needs at any public hearing or to any person or agency, and the department of fisheries, the game commission, the energy office, and the department of agriculture are each empowered to participate in proceedings of the federal energy regulatory commission and other agencies to present its views on minimum flow needs. The department of ecology shall file with the speaker of the house of representatives and the president of the senate on the first day of each regular session of the legislature during an odd-numbered year a report as to the implementation of its minimum flow setting program. [1980 c 87 § 46; 1979 ex.s. c 166 § 1.]

Chapter 90.48

WATER POLLUTION CONTROL

Sections

90.48.285 Contracts with municipal or public corporations and political subdivisions to finance water pollution control projects—Requisites—Priorities.

90.48.285 Contracts with municipal or public corporations and political subdivisions to finance water pollution

control projects—Requisites—Priorities. The commission is authorized to enter into contracts with any municipal or public corporation or political subdivision within the state for the purpose of assisting such agencies to finance the construction of water pollution control projects necessary to prevent the discharge of untreated or inadequately treated sewage or other waste into the waters of the state, including but not limited to, systems for the control of storm or surface waters which will provide for the removal of waste or polluting materials in a manner conforming to the comprehensive plan of water pollution control and abatement proposed by the agencies and approved by the commission. Any such contract may provide for:

The payment by the commission to a municipal or public corporation or political subdivision on a monthly, quarterly, or annual basis of varying amounts of moneys as advances which shall be repayable by said municipal or public corporation, or political subdivision under conditions determined by the commission.

Contracts made by the commission shall be subject to the following limitations:

(1) No contract shall be made unless the commission shall find that the project cannot be financed at reasonable cost or within statutory limitations by the borrower without the making of such contract.

(2) No contract shall be made with any public or municipal corporation or political subdivision to assist in the financing of any project located within a sewage drainage basin for which the commission shall have previously adopted a comprehensive water pollution control and abatement plan unless the project is found by the commission to conform with the basin comprehensive plan.

(3) The commission shall determine the interest rate, not to exceed ten percent per annum, which such advances shall bear.

(4) The commission shall provide such reasonable terms and conditions of repayment of advances as it may determine.

(5) The total outstanding amount which the commission may at any time be obligated to pay under all outstanding contracts made pursuant to this section shall not exceed the moneys available for such payment.

(6) Municipal or public corporations or political subdivisions shall meet such qualifications and follow such procedures in applying for contract assistance as shall be established by the commission.

In making such contracts the commission shall give priority to projects which will provide relief from actual or potential public health hazards or water pollution conditions and which provide substantial capacity beyond present requirements to meet anticipated future demand. [1980 c 32 § 13; 1969 ex.s. c 141 § 1.]

Severability—1969 ex.s. c 141: "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." [1969 ex.s. c 141 § 2.]

Chapter 90.50

WATER POLLUTION CONTROL FACILITIES—FINANCING

Sections

| | |
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| 90.50.030 | Bond proceeds—Administration. (Effective September 1, 1981.) |
| 90.50.070 | Repealed. |

90.50.030 Bond proceeds—Administration. (Effective September 1, 1981.) The proceeds from the sale of the bonds authorized herein, together with all grants, donations, transferred funds and all other moneys which the state finance committee may direct shall be administered by the pollution control commission under the authority granted by RCW 90.50.020. [1980 c 32 § 14; 1967 c 106 § 3.]

Effective date—Transfer of moneys—1980 c 32 § 14: "Section 14 of this act shall take effect on September 1, 1981. Any moneys held on that date in the account disestablished by section 14 of this act shall be transferred to the water pollution control facilities bond redemption fund." [1980 c 32 § 15.] Section 14 of this act is the 1980 c 32 amendment to RCW 90.50.030.

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

Chapter 90.58

SHORELINE MANAGEMENT ACT OF 1971

Sections

| | |
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| 90.58.030 | Definitions and concepts. |
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90.58.030 Definitions and concepts. As used in this chapter, unless the context otherwise requires, the following definitions and concepts apply:

(1) Administration:

(a) "Department" means the department of ecology;

(b) "Director" means the director of the department of ecology;

(c) "Local government" means any county, incorporated city, or town which contains within its boundaries any lands or waters subject to this chapter;

(d) "Person" means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit however designated;

(e) "Hearing board" means the shoreline hearings board established by this chapter.

(2) Geographical:

(a) "Extreme low tide" means the lowest line on the land reached by a receding tide;

(b) "Ordinary high water mark" on all lakes, streams, and tidal water is that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, or as it may naturally change thereafter: *Provided*, That in any area where the ordinary high water mark cannot be found, the ordinary

high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water;

(c) "Shorelines of the state" are the total of all "shorelines" and "shorelines of state-wide significance" within the state;

(d) "Shorelines" means all of the water areas of the state, including reservoirs, and their associated wetlands, together with the lands underlying them; except (i) shorelines of state-wide significance; (ii) shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and (iii) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes;

(e) "Shorelines of state-wide significance" means the following shorelines of the state:

(i) The area between the ordinary high water mark and the western boundary of the state from Cape Disappointment on the south to Cape Flattery on the north, including harbors, bays, estuaries, and inlets;

(ii) Those areas of Puget Sound and adjacent salt waters and the Strait of Juan de Fuca between the ordinary high water mark and the line of extreme low tide as follows:

(A) Nisqually Delta—from DeWolf Bight to Tatsolo Point,

(B) Birch Bay—from Point Whitehorn to Birch Point,

(C) Hood Canal—from Tala Point to Foulweather Bluff,

(D) Skagit Bay and adjacent area—from Brown Point to Yokeko Point, and

(E) Padilla Bay—from March Point to William Point;

(iii) Those areas of Puget Sound and the Strait of Juan de Fuca and adjacent salt waters north to the Canadian line and lying seaward from the line of extreme low tide;

(iv) Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand acres or more measured at the ordinary high water mark;

(v) Those natural rivers or segments thereof as follows:

(A) Any west of the crest of the Cascade range downstream of a point where the mean annual flow is measured at one thousand cubic feet per second or more,

(B) Any east of the crest of the Cascade range downstream of a point where the annual flow is measured at two hundred cubic feet per second or more, or those portions of rivers east of the crest of the Cascade range downstream from the first three hundred square miles of drainage area, whichever is longer;

(vi) Those wetlands associated with (i), (ii), (iv), and (v) of this subsection (2)(e);

(f) "Wetlands" or "wetland areas" means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain

areas landward two hundred feet from such floodways; and all marshes, bogs, swamps, and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter; the same to be designated as to location by the department of ecology; *Provided*, That any county or city may determine that portion of a one-hundred-year-flood plain to be included in its master program as long as such portion includes, as a minimum, the floodway and the adjacent land extending landward two hundred feet therefrom;

(g) "Floodway" means those portions of the area of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition. The floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

(3) Procedural terms:

(a) "Guidelines" means those standards adopted to implement the policy of this chapter for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards shall also provide criteria to local governments and the department in developing master programs;

(b) "Master program" shall mean the comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020;

(c) "State master program" is the cumulative total of all master programs approved or adopted by the department of ecology;

(d) "Development" means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to this chapter at any state of water level;

(e) "Substantial development" shall mean any development of which the total cost or fair market value exceeds one thousand dollars, or any development which materially interferes with the normal public use of the water or shorelines of the state; except that the following shall not be considered substantial developments for the purpose of this chapter:

(i) Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements;

(ii) Construction of the normal protective bulkhead common to single family residences;

(iii) Emergency construction necessary to protect property from damage by the elements;

(iv) Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on wetlands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels: *Provided*, That a feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the wetlands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;

(v) Construction or modification of navigational aids such as channel markers and anchor buoys;

(vi) Construction on wetlands by an owner, lessee, or contract purchaser of a single family residence for his own use or for the use of his family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this chapter;

(vii) Construction of a dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of a single family residence, the cost of which does not exceed two thousand five hundred dollars;

(viii) Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water for the irrigation of lands;

(ix) The marking of property lines or corners on state owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;

(x) Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed, or utilized primarily as a part of an agricultural drainage or diking system;

(xi) Any action commenced prior to December 31, 1982, pertaining to (A) the restoration of interim transportation services as may be necessary as a consequence of the destruction of the Hood Canal bridge, including, but not limited to, improvements to highways, development of park and ride facilities, and development of ferry terminal facilities until a new or reconstructed Hood Canal bridge is open to traffic; and (B) the reconstruction of a permanent bridge at the site of the original Hood Canal bridge. [1980 c 2 § 3; 1979 ex.s. c 84 § 3; 1975 1st ex.s. c 182 § 1; 1973 1st ex.s. c 203 § 1; 1971 ex.s. c 286 § 3.]

Intent—1980 c 2; 1979 ex.s. c 84: See note following RCW 43.21C.032.

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POULTRY

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