

Title 25

PARTNERSHIPS

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PART I PRELIMINARY PROVISIONS

25.04.010 Name of chapter. This chapter may be cited as the uniform partnership act. [1955 c 15 § 25.04.010. Prior: 1945 c 137 § 1; Rem. Supp. 1945 § 9975-40.]

25.04.020 Definition of terms. In this chapter:
"Court" includes every court and judge having jurisdiction in the case;
"Business" includes every trade, occupation, or profession;

"Person" includes individuals, trustees and personal representatives, partnerships, corporations, and other associations;

"Bankrupt" includes bankrupt under the federal bankruptcy act or insolvent under any state insolvent act;

"Conveyance" includes every assignment, lease, mortgage, or encumbrance;

"Real property" includes land and any interest or estate in land. [1985 c 8 § 2. Prior: 1984 c 149 § 171; 1955 c 15 § 25.04.020; prior: 1945 c 137 § 2; Rem. Supp. 1945 § 9975-41.]

Short title—Application—1985 c 30: See RCW 11.02.900 and 11.02.901.

Purpose—1985 c 8: "The purpose of this act is to make technical corrections to chapter 149, Laws of 1984, and to ensure that the changes made in that chapter meet the constitutional requirements of Article II, section 19 of the state Constitution." [1985 c 8 § 1.]

Severability—1985 c 8: "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." [1985 c 8 § 4.]

Severability—Effective date—1984 c 149: See notes following RCW 11.02.005.

25.04.030 Interpretation of knowledge and notice.
(1) A person has knowledge of a fact within the meaning of

this chapter not only when he has actual knowledge thereof, but also when he has knowledge of such other facts as in the circumstances shows bad faith.

(2) A person has notice of a fact within the meaning of this chapter when the person who claims the benefit of the notice:

- (a) States the fact to such person, or
- (b) Delivers through the mail, or by other means of communication, a written statement of the fact to such person or to a proper person at his place of business or residence. [1955 c 15 § 25.04.030. Prior: 1945 c 137 § 3; Rem. Supp. 1945 § 9975-42.]

25.04.040 Rules of construction. (1) The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this chapter.

(2) The law of estoppel shall apply under this chapter.

(3) The law of agency shall apply under this chapter.

(4) This chapter shall be so interpreted and construed as to effect its general purpose to make uniform the law of those states which enact it.

(5) This chapter shall not be construed so as to impair the obligations of any contract existing when the chapter goes into effect, nor to affect any action or proceedings begun or right accrued before this chapter takes effect. [1955 c 15 § 25.04.040. Prior: 1945 c 137 § 4; Rem. Supp. 1945 § 9975-43.]

25.04.050 Rules for cases not provided for in this chapter. In any case not provided for in this chapter the rules of law and equity, including the law merchant, shall govern. [1955 c 15 § 25.04.050. Prior: 1945 c 137 § 5; Rem. Supp. 1945 § 9975-44.]

PART II NATURE OF A PARTNERSHIP

25.04.060 Partnership defined. (1) A partnership is an association of two or more persons to carry on as co-owners a business for profit.

(2) Any association formed under any other statute of this state, or a statute adopted by any authority, other than the authority of this state, is not a partnership under this chapter, unless such association would have been a partnership in this state prior to the adoption of this chapter.

(3) This chapter shall apply to limited partnerships except insofar as the statutes relating to such partnerships are inconsistent herewith. [1955 c 15 § 25.04.060. Prior: 1945 c 137 § 6; Rem. Supp. 1945 § 9975-45.]

25.04.070 Rules for determining the existence of a partnership. In determining whether a partnership exists, these rules shall apply:

(1) Except as provided by RCW 25.04.160 persons who are not partners as to each other, are not partners as to third persons.

(2) Joint tenancy, tenancy in common, tenancy by the entireties, joint property, common property, or part ownership does not of itself establish a partnership, whether such co-owners do or do not share any profits made by the use of the property.

(3) The sharing of gross returns does not of itself establish a partnership, whether or not the persons sharing them have a joint or common right or interest in any property from which the returns are derived.

(4) The receipt by a person of a share of the profits of a business is prima facie evidence that he is a partner in the business, but no such inference shall be drawn if such profits were received in payments:

- (a) As a debt by installments or otherwise,
- (b) As wages of an employee or rent to a landlord,
- (c) As an annuity to a surviving spouse or representative of a deceased partner,
- (d) As interest on a loan, though the amount of payment vary with the profits of the business,

(e) As the consideration for the sale of a good will of a business or other property by installments or otherwise. [1973 1st ex.s. c 154 § 24; 1955 c 15 § 25.04.070. Prior: 1945 c 137 § 7; Rem. Supp. 1945 § 9975-46.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

25.04.080 Partnership property. (1) All property originally brought into the partnership stock or subsequently acquired by purchase or otherwise, on account of the partnership, is partnership property.

(2) Unless the contrary intention appears, property acquired with partnership funds is partnership property.

(3) Any estate in real property may be acquired in the partnership name. Title so acquired can be conveyed only in the partnership name.

(4) A conveyance to a partnership in the partnership name, though without words of inheritance, passes the entire estate of the grantor unless a contrary intent appears. [1955 c 15 § 25.04.080. Prior: 1945 c 137 § 8; Rem. Supp. 1945 § 9975-47.]

PART III RELATIONS OF PARTNERS TO PERSONS DEALING WITH THE PARTNERSHIP

25.04.090 Partner agent of partnership as to partnership business. (1) Every partner is an agent of the partnership for the purpose of its business, and the act of every partner, including the execution in the partnership name of any instrument, for apparently carrying on in the usual way the business of the partnership of which he is a member binds the partnership, unless the partner so acting has in fact no authority to act for the partnership in the particular matter, and the person with whom he is dealing has knowledge of the fact that he has no such authority.

(2) An act of a partner which is not apparently for the carrying on of the business of the partnership in the usual way does not bind the partnership unless authorized by the other partners.

(3) Unless authorized by the other partners or unless they have abandoned the business, one or more but less than all partners have no authority to:

(a) Assign the partnership property in trust for creditors or on the assignee's promise to pay the debts of the partnership,

(b) Dispose of the good will of the business,

(c) Do any other act which would make it impossible to carry on the ordinary business of a partnership,

(d) Confess a judgment,

(e) Submit a partnership claim or liability to arbitration or reference.

(4) No act of a partner in contravention of a restriction on authority shall bind the partnership to persons having knowledge of the restriction. [1955 c 15 § 25.04.090. Prior: 1945 c 137 § 9; Rem. Supp. 1945 § 9975-48.]

25.04.100 Conveyance of real property of the partnership. (1) Where title to real property is in the partnership name, any partner may convey title to such property by a conveyance executed in the partnership name; but the partnership may recover such property unless the partner's act binds the partnership under the provisions of subsection (1) of RCW 25.04.090, or unless such property has been conveyed by the grantee or a person claiming through such grantee to a holder for value without knowledge that the partner, in making the conveyance, has exceeded his authority.

(2) Where title to real property is in the name of the partnership, a conveyance executed by a partner, in his own name, passes the equitable interest of the partnership, provided the act is one within the authority of the partner under the provisions of subsection (1) of RCW 25.04.090.

(3) Where title to real property is in the name of one or more but not all the partners, and the record does not disclose the right of the partnership, the partners in whose name the title stands may convey title to such property, but the partnership may recover such property if the partners' act does not bind the partnership under the provisions of subsection (1) of RCW 25.04.090, unless the purchaser or his assignee, is a holder for value, without knowledge.

(4) Where the title to real property is in the name of one or more or all the partners, or in a third person in trust for the partnership, a conveyance executed by a partner in the partnership name, or in his own name, passes the equitable interest of the partnership, provided the act is one within the authority of the partner under the provisions of subsection (1) of RCW 25.04.090.

(5) Where the title to real property is in the names of all the partners a conveyance executed by all the partners passes all their rights in such property. [1955 c 15 § 25.04.100. Prior: 1945 c 137 § 10; Rem. Supp. 1945 § 9975-49.]

25.04.110 Partnership bound by admission of partner. An admission or representation made by any partner concerning partnership affairs within the scope of his authority as conferred by this chapter is evidence against the partnership. [1955 c 15 § 25.04.110. Prior: 1945 c 137 § 11; Rem. Supp. 1945 § 9975-50.]

25.04.120 Partnership charged with knowledge of or notice to partner. Notice to any partner of any matter relating to partnership affairs, and the knowledge of the partner acting in the particular matter, acquired while a partner or then present to his mind, and the knowledge of any other partner who reasonably could and should have communicated it to the acting partner, operate as notice to or knowledge of the partnership, except in the case of a fraud

on the partnership committed by or with the consent of that partner. [1955 c 15 § 25.04.120. Prior: 1945 c 137 § 12; Rem. Supp. 1945 § 9975-51.]

25.04.130 Partnership bound by partner's wrongful act. Where, by any wrongful act or omission of any partner acting in the ordinary course of the business of the partnership or with the authority of his copartners, loss or injury is caused to any person, not being a partner in the partnership, or any penalty is incurred, the partnership is liable therefor to the same extent as the partner so acting or omitting to act. [1955 c 15 § 25.04.130. Prior: 1945 c 137 § 13; Rem. Supp. 1945 § 9975-52.]

25.04.140 Partnership bound by partner's breach of trust. The partnership is bound to make good the loss:

(1) Where one partner acting within the scope of his apparent authority receives money or property of a third person and misapplies it; and

(2) Where the partnership in the course of its business receives money or property of a third person and the money or property so received is misapplied by any partner while it is in the custody of the partnership. [1955 c 15 § 25.04.140. Prior: 1945 c 137 § 14; Rem. Supp. 1945 § 9975-53.]

25.04.150 Nature of partner's liability. All partners are liable:

(1) Jointly and severally for everything chargeable to the partnership under RCW 25.04.130 and 25.04.140; and

(2) Jointly for all other debts and obligations of the partnership; but any partner may enter into a separate obligation to perform a partnership contract;

(3) Except that:

(a) In no event shall a trustee or personal representative (a fiduciary) acting as a partner have personal liability except as provided in RCW 11.98.110 (2) and (4);

(b) Any such liability under these subsections shall be satisfied first from the partnership assets and second from the trust or estate; and

(c) If a fiduciary is liable, the fiduciary is entitled to indemnification first from the partnership assets and second from the trust or estate. [1985 c 8 § 3. Prior: 1984 c 149 § 172; 1955 c 15 § 25.04.150; prior: 1945 c 137 § 15; Rem. Supp. 1945 § 9975-54.]

Short title—Application—1985 c 30: See RCW 11.02.900 and 11.02.901.

Purpose—Severability—1985 c 8: See notes following RCW 25.04.020.

Severability—Effective date—1984 c 149: See notes following RCW 11.02.005.

25.04.160 Partner by estoppel. (1) When a person, by words spoken or written or by conduct, represents himself, or consents to another representing him to any one, as a partner in an existing partnership or with one or more persons not actual partners, he is liable to any such person to whom such representation has been made, who has, on the faith of such representation, given credit to the actual or apparent partnership, and if he has made such representation or consented to its being made in a public manner he is

liable to such person, whether the representation has or has not been made or communicated to such person so giving credit by or with the knowledge of the apparent partner making the representation or consenting to its being made.

(a) When a partnership liability results, he is liable as though he were an actual member of the partnership.

(b) When no partnership liability results, he is liable jointly with the other persons, if any, so consenting to the contract or representation as to incur liability, otherwise separately.

(2) When a person has been thus represented to be a partner in an existing partnership, or with one or more persons not actual partners, he is an agent of the persons consenting to such representation to bind them to the same extent and in the same manner as though he were a partner in fact, with respect to persons who rely upon the representation. Where all the members of the existing partnership consent to the representation, a partnership act or obligation results; but in all other cases it is the joint act or obligation of the person acting and the persons consenting to the representation. [1955 c 15 § 25.04.160. Prior: 1945 c 137 § 16; Rem. Supp. 1945 § 9975-55.]

25.04.170 Liability of incoming partner. A person admitted as a partner into an existing partnership is liable for all the obligations of the partnership arising before his admission as though he had been a partner when such obligations were incurred, except that this liability shall be satisfied only out of the partnership property. [1955 c 15 § 25.04.170. Prior: 1945 c 137 § 17; Rem. Supp. 1945 § 9975-56.]

PART IV

RELATIONS OF PARTNERS TO ONE ANOTHER

25.04.180 Rules determining rights and duties of partners. The rights and duties of the partners in relation to the partnership shall be determined, subject to any agreement between them, by the following rules:

(1) Each partner shall be repaid his contributions, whether by way of capital or advances to the partnership property and share equally in the profits and surplus remaining after all liabilities, including those to partners, are satisfied; and must contribute toward the losses, whether of capital or otherwise, sustained by the partnership according to his share in the profits.

(2) The partnership must indemnify every partner in respect of payments made and personal liabilities reasonably incurred by him in the ordinary and proper conduct of its business, or for the preservation of its business or property.

(3) A partner, who in aid of the partnership makes any payment or advance beyond the amount of capital which he agreed to contribute, shall be paid interest from the date of the payment or advance.

(4) A partner shall receive interest on the capital contributed by him only from the date when repayment should be made.

(5) All partners have equal rights in the management and conduct of the partnership business.

(6) No partner is entitled to remuneration for acting in the partnership business, except that a surviving partner is

entitled to reasonable compensation for his services in winding up the partnership affairs.

(7) No person can become a member of a partnership without the consent of all the partners.

(8) Any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the partners; but no act in contravention of any agreement between the partners may be done rightfully without the consent of all the partners. [1955 c 15 § 25.04.180. Prior: 1945 c 137 § 18; Rem. Supp. 1945 § 9975-57.]

25.04.190 Partnership books. The partnership books shall be kept, subject to any agreement between the partners, at the principal place of business of the partnership, and every partner shall at all times have access to and may inspect and copy any of them. [1955 c 15 § 25.04.190. Prior: 1945 c 137 § 19; Rem. Supp. 1945 § 9975-58.]

25.04.200 Duty of partners to render information. Partners shall render on demand true and full information of all things affecting the partnership to any partner or the legal representative of any deceased partner or partner under legal disability. [1955 c 15 § 25.04.200. Prior: 1945 c 137 § 20; Rem. Supp. 1945 § 9975-59.]

25.04.210 Partner accountable as a fiduciary. (1) Every partner must account to the partnership for any benefit, and hold as trustee for it any profits derived by him without the consent of the other partners from any transaction connected with the formation, conduct, or liquidation of the partnership or from any use by him of its property.

(2) This section applies also to the representatives of a deceased partner engaged in the liquidation of the affairs of the partnership as the personal representatives of the last surviving partner. [1955 c 15 § 25.04.210. Prior: 1945 c 137 § 21; Rem. Supp. 1945 § 9975-60.]

25.04.220 Right to an account. Any partner shall have the right to a formal account as to partnership affairs:

(1) If he is wrongfully excluded from the partnership business or possession of its property by his copartners,

(2) If the right exists under the terms of any agreement,

(3) As provided by RCW 25.04.210,

(4) Whenever other circumstances render it just and reasonable. [1955 c 15 § 25.04.220. Prior: 1945 c 137 § 22; Rem. Supp. 1945 § 9975-61.]

25.04.230 Continuation of partnership beyond fixed term. (1) When a partnership for a fixed term or particular undertaking is continued after the termination of such term or particular undertaking without any express agreement, the rights and duties of the partners remain the same as they were at such termination, so far as is consistent with a partnership at will.

(2) A continuation of the business by the partners or such of them as habitually acted therein during the term, without any settlement or liquidation of the partnership affairs, is prima facie evidence of a continuation of the partnership. [1955 c 15 § 25.04.230. Prior: 1945 c 137 § 23; Rem. Supp. 1945 § 9975-62.]

PART V
PROPERTY RIGHTS OF A PARTNER

25.04.240 Extent of property rights of partner. The property rights of a partner are (1) his rights in specific partnership property, (2) his interest in the partnership, and (3) his right to participate in the management. [1955 c 15 § 25.04.240. Prior: 1945 c 137 § 24; Rem. Supp. 1945 § 9975-63.]

25.04.250 Nature of a partner's right in specific partnership property. (1) A partner is co-owner with his partners of specific partnership property holding as a tenant in partnership.

(2) The incidents of this tenancy are such that:

(a) A partner, subject to the provisions of this chapter and to any agreement between the partners, has an equal right with his partners to possess specific partnership property for partnership purposes; but he has no right to possess such property for any other purpose without the consent of his partners.

(b) A partner's right in specific partnership property is not assignable except in connection with the assignment of rights of all the partners in the same property.

(c) A partner's right in specific partnership property is not subject to attachment or execution, except on a claim against the partnership. When partnership property is attached for a partnership debt, the partners, or any of them, or the representatives of a deceased partner, cannot claim any right under the homestead or exemption laws.

(d) On the death of a partner, his right in specific partnership property vests in the surviving partner or partners, except where the deceased was the last surviving partner, when his right in such property vests in his legal representative. Such surviving partner or partners, or the legal representative of the last surviving partner, has no right to possess the partnership property for any but a partnership purpose.

(e) A partner's right in specific partnership property is not subject to dower, curtesy, or allowances to a surviving spouse, heirs, or next of kin. [1973 1st ex.s. c 154 § 25; 1955 c 15 § 25.04.250. Prior: 1945 c 137 § 25; Rem. Supp. 1945 § 9975-64.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

25.04.260 Nature of partner's interest in the partnership. A partner's interest in the partnership is his share of the profits and surplus, and the same is personal property. [1955 c 15 § 25.04.260. Prior: 1945 c 137 § 26; Rem. Supp. 1945 § 9975-65.]

25.04.270 Assignment of partner's interest. (1) A conveyance by a partner of his interest in the partnership does not of itself dissolve the partnership, nor, as against the other partners in the absence of agreement, entitle the assignees, during the continuance of the partnership, to interfere in the management or administration of the partnership business or affairs, or to require any information or account of partnership transactions, or to inspect the partnership books; but it merely entitles the assignee to receive in

accordance with his contract the profits to which the assigning partner would otherwise be entitled.

(2) In case of a dissolution of the partnership, the assignee is entitled to receive his assignor's interest and may require an account from the date only of the last account agreed to by all the partners. [1955 c 15 § 25.04.270. Prior: 1945 c 137 § 27; Rem. Supp. 1945 § 9975-66.]

25.04.280 Partner's interest subject to charging order. (1) On due application to a competent court by any judgment creditor of a partner, the court which entered the judgment, order, or decree, or any other court, may charge the interest of the debtor partner with payment of the unsatisfied amount of such judgment debt with interest thereon; and may then or later appoint a receiver of his share of the profits, and of any other money due or to fall due to him in respect of the partnership, and make all other orders, directions, accounts and inquiries which the debtor partner might have made, or which the circumstances of the case may require.

(2) The interest charged may be redeemed at any time before foreclosure, or in case of a sale being directed by the court may be purchased without thereby causing a dissolution:

(a) With separate property, by any one or more of the partners, or

(b) With partnership property, by any one or more of the partners with the consent of all the partners whose interests are not so charged or sold.

(3) Nothing in this chapter shall be held to deprive a partner of his right, if any, under the exemption laws, as regards his interest in the partnership. [1955 c 15 § 25.04.280. Prior: 1945 c 137 § 28; Rem. Supp. 1945 § 9975-67.]

PART VI
DISSOLUTION AND WINDING UP

25.04.290 Dissolution defined. The dissolution of a partnership is the change in the relation of the partners caused by any partner ceasing to be associated in the carrying on as distinguished from winding up of the business. [1955 c 15 § 25.04.290. Prior: 1945 c 137 § 29; Rem. Supp. 1945 § 9975-68.]

25.04.300 Partnership not terminated by dissolution. On dissolution the partnership is not terminated, but continues until the winding up of partnership affairs is completed. [1955 c 15 § 25.04.300. Prior: 1945 c 137 § 30; Rem. Supp. 1945 § 9975-69.]

25.04.310 Causes of dissolution. Dissolution is caused:

(1) Without violation of the agreement between the partners,

(a) By the termination of the definite term or particular undertaking specified in the agreement,

(b) By the express will of any partner when no definite term or particular undertaking is specified,

(c) By the express will of all the partners who have not assigned their interests or suffered them to be charged for

their separate debts, either before or after the termination of any specified term or particular undertaking,

(d) By the expulsion of any partner from the business bona fide in accordance with such a power conferred by the agreement between the partners;

(2) In contravention of the agreement between the partners, where the circumstances do not permit a dissolution under any other provision of this section, by the express will of any partner at any time;

(3) By any event which makes it unlawful for the business of the partnership to be carried on or for the members to carry it on in partnership;

(4) By the death of any partner;

(5) By the bankruptcy of any partner of the partnership;

(6) By decree of court under RCW 25.04.320. [1955 c 15 § 25.04.310. Prior: 1945 c 137 § 31; Rem. Supp. 1945 § 9975-70.]

25.04.320 Dissolution by decree of court. (1) On application by or for a partner the court shall decree a dissolution whenever:

(a) A partner has been declared a lunatic in any judicial proceeding or is shown to be of unsound mind,

(b) A partner becomes in any other way incapable of performing his part of the partnership contract,

(c) A partner has been guilty of such conduct as tends to affect prejudicially the carrying on of the business,

(d) A partner wilfully or persistently commits a breach of the partnership agreement, or otherwise so conducts himself in matters relating to the partnership business that it is not reasonably practicable to carry on the business in partnership with him,

(e) The business of the partnership can only be carried on at a loss,

(f) Other circumstances render dissolution equitable.

(2) On the application of the purchaser of a partner's interest under RCW 25.04.270 and 25.04.280:

(a) After the termination of the specified term or particular undertaking,

(b) At any time if the partnership was a partnership at will when the interest was assigned or when the charging order was issued. [1955 c 15 § 25.04.320. Prior: 1945 c 137 § 32; Rem. Supp. 1945 § 9975-71.]

25.04.330 General effect of dissolution on authority of partner. Except so far as may be necessary to wind up partnership affairs or to complete transactions begun but not then finished, dissolution terminates all authority of any partner to act for the partnership,

(1) With respect to the partners,

(a) When the dissolution is not by the act, bankruptcy or death of a partner; or

(b) When the dissolution is by such act, bankruptcy or death of a partner, in cases where RCW 25.04.340 so requires.

(2) With respect to persons not partners, as declared in RCW 25.04.350. [1955 c 15 § 25.04.330. Prior: 1945 c 137 § 33; Rem. Supp. 1945 § 9975-72.]

25.04.340 Right of partner to contribution from copartners after dissolution. Where the dissolution is

caused by the act, death or bankruptcy of a partner, each partner is liable to his copartners for his share of any liability created by any partner acting for the partnership as if the partnership had not been dissolved unless:

(1) The dissolution being by act of any partner, the partner acting for the partnership had knowledge of the dissolution, or

(2) The dissolution being by the death or bankruptcy of a partner, the partner acting for the partnership had knowledge or notice of the death or bankruptcy. [1955 c 15 § 25.04.340. Prior: 1945 c 137 § 34; Rem. Supp. 1945 § 9975-73.]

25.04.350 Power of partner to bind partnership to third persons after dissolution. (1) After dissolution a partner can bind the partnership except as provided in subsection (3) of this section:

(a) By any act appropriate for winding up partnership affairs or completing transactions unfinished at dissolution;

(b) By any transaction which would bind the partnership if dissolution had not taken place, provided the other party to the transaction:

(i) Had extended credit to the partnership prior to dissolution and had no knowledge or notice of the dissolution; or

(ii) Though he had not so extended credit, had nevertheless known of the partnership prior to dissolution, and, having no knowledge or notice of dissolution, the fact of dissolution had not been advertised in a newspaper of general circulation in the place (or in each place if more than one) at which the partnership business was regularly carried on.

(2) The liability of a partner under subsection (1)(b) shall be satisfied out of partnership assets alone when such partner had been prior to dissolution:

(a) Unknown as a partner to the person with whom the contract is made; and

(b) So far unknown and inactive in partnership affairs that the business reputation of the partnership could not be said to have been in any degree due to his connection with it.

(3) The partnership is in no case bound by any act of a partner after dissolution:

(a) Where the partnership is dissolved because it is unlawful to carry on the business, unless the act is appropriate for winding up partnership affairs; or

(b) Where the partner has become bankrupt; or

(c) Where the partner has no authority to wind up partnership affairs; except by a transaction with one who:

(i) Had extended credit to the partnership prior to dissolution and had no knowledge or notice of his want of authority; or

(ii) Had not extended credit to the partnership prior to dissolution, and, having no knowledge or notice of his want of authority, the fact of his want of authority has not been advertised in the manner provided for advertising the fact of dissolution in subsection (1)(b)(ii).

(4) Nothing in this section shall affect the liability under RCW 25.04.160 of any person who after dissolution represents himself or consents to another representing him as a partner in a partnership engaged in carrying on business.

[1955 c 15 § 25.04.350. Prior: 1945 c 137 § 35; Rem. Supp. 1945 § 9975-74.]

25.04.360 Effect of dissolution on partner's existing liability. (1) The dissolution of the partnership does not of itself discharge the existing liability of any partner.

(2) A partner is discharged from any existing liability upon dissolution of the partnership by an agreement to that effect between himself, the partnership creditor and the person or partnership continuing the business; and such agreement may be inferred from the course of dealing between the creditor having knowledge of the dissolution and the person or partnership continuing the business.

(3) Where a person agrees to assume the existing obligations of a dissolved partnership, the partners whose obligations have been assumed shall be discharged from any liability to any creditor of the partnership who, knowing of the agreement, consents to a material alteration in the nature or time of payment of such obligations.

(4) The individual property of a deceased partner shall be liable for all obligations of the partnership incurred while he was a partner but subject to the prior payment of his separate debts. [1955 c 15 § 25.04.360. Prior: 1945 c 137 § 36; Rem. Supp. 1945 § 9975-75.]

25.04.370 Right to wind up. Unless otherwise agreed, the partners who have not wrongfully dissolved the partnership or the legal representative of the last surviving partner, not bankrupt, have the right to wind up the partnership affairs: PROVIDED, HOWEVER, That any partner, his legal representative, or his assignee, upon cause shown, may obtain winding up by the court. [1955 c 15 § 25.04.370. Prior: 1945 c 137 § 37; Rem. Supp. 1945 § 9975-76.]

25.04.380 Rights of partners to application of partnership property. (1) When dissolution is caused in any way, except in contravention of the partnership agreement, each partner, as against his copartners and all persons claiming through them in respect of their interests in the partnership, unless otherwise agreed, may have the partnership property applied to discharge its liabilities, and the surplus applied to pay in cash the net amount owing to the respective partners. But if dissolution is caused by expulsion of a partner, bona fide under the partnership agreement and if the expelled partner is discharged from all partnership liabilities, either by payment or agreement under RCW 25.04.360(2), he shall receive in cash only the net amount due him from the partnership.

(2) When dissolution is caused in contravention of the partnership agreement the rights of the partners shall be as follows:

(a) Each partner who has not caused dissolution wrongfully shall have,

(i) All the rights specified in subsection (1) of this section, and

(ii) The right, as against each partner who has caused the dissolution wrongfully, to damages for breach of the agreement.

(b) The partners who have not caused the dissolution wrongfully, if they all desire to continue the business in the same name, either by themselves or jointly with others, may

do so, during the agreed term for the partnership and for that purpose may possess the partnership property provided they secure the payment by bond approved by the court, or pay to any partner who has caused the dissolution wrongfully, the value of his interest in the partnership at the dissolution, less any damages recoverable under subsection (2)(a)(ii) of this section, and in like manner indemnify him against all present or future partnership liabilities.

(c) A partner who has caused the dissolution wrongfully shall have:

(i) If the business is not continued under the provisions of subsection (2)(b) all the rights of a partner under subsection (1), subject to subsection (2)(a)(ii), of this section,

(ii) If the business is continued under subsection (2)(b) of this section the right as against his copartners and all claiming through them in respect of their interests in the partnership, to have the value of his interests in the partnership, less any damages caused to his copartners by the dissolution, ascertained and paid to him in cash, or the payment secured by bond approved by the court, and to be released from all existing liabilities of the partnership; but in ascertaining the value of the partner's interest the value of the good will of the business shall not be considered. [1955 c 15 § 25.04.380. Prior: 1945 c 137 § 38; Rem. Supp. 1945 § 9975-77.]

25.04.390 Rights where partnership is dissolved for fraud or misrepresentation. Where a partnership contract is rescinded on the ground of the fraud or misrepresentation of one of the parties thereto, the party entitled to rescind is, without prejudice to any other right, entitled,

(1) To a lien on, or right of retention of, the surplus of the partnership property after satisfying the partnership liabilities to third persons for any sum of money paid by him for the purchase of an interest in the partnership and for any capital or advances contributed by him; and

(2) To stand, after all liabilities to third persons have been satisfied, in the place of the creditors of the partnership for any payments made by him in respect of the partnership liabilities; and

(3) To be indemnified by the person guilty of the fraud or making the representation against all debts and liabilities of the partnership. [1955 c 15 § 25.04.390. Prior: 1945 c 137 § 39; Rem. Supp. 1945 § 9975-78.]

25.04.400 Rules for distribution. In settling accounts between the partners after dissolution, the following rules shall be observed, subject to any agreement to the contrary:

(1) The assets of the partnership are:

(a) The partnership property,

(b) The contributions of the partners necessary for the payment of all the liabilities specified in subsection (2) of this section.

(2) The liabilities of the partnership shall rank in order of payment, as follows:

(a) Those owing to creditors other than partners,

(b) Those owing to partners other than for capital and profits,

(c) Those owing to partners in respect of capital,

(d) Those owing to partners in respect of profits.

(3) The assets shall be applied in the order of their declaration in subdivision (1) of this section to the satisfaction of the liabilities.

(4) The partners shall contribute, as provided by RCW 25.04.180(1) the amount necessary to satisfy the liabilities; but if any, but not all, of the partners are insolvent, or, not being subject to process, refuse to contribute, the other partners shall contribute their share of the liabilities, and, in the relative proportions in which they share the profits, the additional amount necessary to pay the liabilities.

(5) An assignee for the benefit of creditors or any person appointed by the court shall have the right to enforce the contribution specified in subdivision (4) of this section.

(6) Any partner or his legal representative shall have the right to enforce the contributions specified in subdivision (4) of this section, to the extent of the amount which he has paid in excess of his share of the liability.

(7) The individual property of a deceased partner shall be liable for the contributions specified in subdivision (4) of this section.

(8) When partnership property and the individual properties of the partners are in possession of a court for distribution, partnership creditors shall have priority on partnership property and separate creditors on individual property, saving the rights of lien or secured creditors as heretofore.

(9) Where a partner has become bankrupt or his estate is insolvent the claims against his separate property shall rank in the following order:

- (a) Those owing to separate creditors,
- (b) Those owing to partnership creditors,
- (c) Those owing to partners by way of contribution.

[1955 c 15 § 25.04.400. Prior: 1945 c 137 § 40; Rem. Supp. 1945 § 9975-79.]

25.04.410 Liability of persons continuing the business in certain cases. (1) When any new partner is admitted into an existing partnership, or when any partner retires and assigns (or the representative of the deceased partner assigns) his rights in partnership property to two or more of the partners, or to one or more of the partners and one or more third persons, if the business is continued without liquidation of the partnership affairs, creditors of the first or dissolved partnership are also creditors of the partnership so continuing the business.

(2) When all but one partner retire and assign (or the representative of a deceased partner assigns) their rights in partnership property to the remaining partner, who continues the business without liquidation of partnership affairs, either alone or with others, creditors of the dissolved partnership are also creditors of the person or partnership so continuing the business.

(3) When any partner retires or dies and the business of the dissolved partnership is continued as set forth in subsections (1) and (2) of this section, with the consent of the retired partners or the representative of the deceased partner, but without any assignment of his right in partnership property, rights of creditors of the dissolved partnership and of the creditors of the person or partnership continuing the business shall be as if such assignment had been made.

(4) When all the partners or their representatives assign their rights in partnership property to one or more third persons who promise to pay the debts and who continue the business of the dissolved partnership, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(5) When any partner wrongfully causes a dissolution and the remaining partners continue the business under the provisions of RCW 25.04.380(2)(b), either alone or with others, and without liquidation of the partnership affairs, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(6) When a partner is expelled and the remaining partners continue the business either alone or with others, without liquidation of the partnership affairs, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(7) The liability of a third person becoming a partner in the partnership continuing the business, under this section, to the creditors of the dissolved partnership shall be satisfied out of partnership property only.

(8) When the business of a partnership after dissolution is continued under any conditions set forth in this section the creditors of the dissolved partnership, as against the separate creditors of the retiring or deceased partner or the representative of the deceased partner, have a prior right to any claim of the retired partner or the representative of the deceased partner against the person or partnership continuing the business, on account of the retired or deceased partner's interest in the dissolved partnership or on account of any consideration promised for such interest or for his right in partnership property.

(9) Nothing in this section shall be held to modify any right of creditors to set aside any assignment on the ground of fraud.

(10) The use by the person or partnership continuing the business of the partnership name, or the name of a deceased partner as part thereof, shall not of itself make the individual property of the deceased partner liable for any debts contracted by such person or partnership. [1955 c 15 § 25.04.410. Prior: 1945 c 137 § 41; Rem. Supp. 1945 § 9975-80.]

25.04.420 Rights of retiring or estate of deceased partner when business is continued. When any partner retires or dies, and the business is continued under any of the conditions set forth in RCW 25.04.410(1), (2), (3), (5), (6), or RCW 25.04.380(2)(b), without any settlement of accounts as between him or his estate and the person or partnership continuing the business, unless otherwise agreed, he or his legal representative as against such persons or partnerships may have the value of his interest at the date of dissolution ascertained, and shall receive as an ordinary creditor an amount equal to the value of his interest in the dissolved partnership with interest, or, at his option or at the option of his legal representative, in lieu of interest, the profits attributable to the use of his right in the property of the dissolved partnership: PROVIDED, That the creditors of the dissolved partnership as against the separate creditors, or the representative of the retired or deceased partner, shall have priority on any claim arising under this section as

provided by RCW 25.04.410(8). [1955 c 15 § 25.04.420. Prior: 1945 c 137 § 42; Rem. Supp. 1945 § 9975-81.]

25.04.430 Accrual of actions. The right to an account of his interest shall accrue to any partner, or his legal representative, as against the winding up partners or the surviving partners or the person or partnership continuing the business, at the date of dissolution, in the absence of any agreement to the contrary. [1955 c 15 § 25.04.430. Prior: 1945 c 137 § 43; Rem. Supp. 1945 § 9975-82.]

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Reviser's note: Throughout this chapter the phrase "this act" has been changed to "this chapter." "This act" [1981 c 51] consists of this chapter and the repeal of chapters 25.08 and 25.98 RCW.

Materials specifically authorized to be printed and distributed by secretary of state: RCW 43.07.140.

Revolving fund of secretary of state, deposit of moneys for costs of carrying out secretary of state's functions under this chapter: RCW 43.07.130.

ARTICLE 1 GENERAL PROVISIONS

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

(1) "Certificate of limited partnership" means the certificate referred to in RCW 25.10.080, and the certificate as amended or restated.

(2) "Contribution" means any cash, property, services rendered, or a promissory note or other binding obligation to contribute cash or property or to perform services, which a partner contributes to a limited partnership in his capacity as a partner.

(3) "Event of withdrawal of a general partner" means an event that causes a person to cease to be a general partner as provided in RCW 25.10.230.

(4) "Foreign limited partnership" means a partnership formed under laws other than the laws of this state and having as partners one or more general partners and one or more limited partners.

(5) "General partner" means a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement and named in the certificate of limited partnership as a general partner.

(6) "Limited partner" means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement.

(7) "Limited partnership" and "domestic limited partnership" means a partnership formed by two or more persons under the laws of this state and having one or more general partners and one or more limited partners.

(8) "Partner" means a limited or general partner.

(9) "Partnership agreement" means any valid agreement, written or oral, of the partners as to the affairs of a limited partnership and the conduct of its business.

(10) "Partnership interest" means a partner's share of the profits and losses of a limited partnership and the right to receive distributions of partnership assets.

(11) "Person" means a natural person, partnership, limited partnership (domestic or foreign), trust, estate, association, or corporation.

(12) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(13) "Conforms to law" as used in connection with duties of the secretary of state in reviewing documents for filing under this chapter, means the secretary of state has determined the document complies as to form with the applicable requirements of this chapter.

(14) "Effective date" means, in connection with a document filing made by the secretary of state, the date which is shown by affixing a "filed" stamp on the documents. When a document is received for filing by the secretary of state in a form which complies with the requirements of this chapter and which would entitle the document to be filed immediately upon receipt, but the secretary of state's approval action occurs subsequent to the date of receipt, the secretary of state's filing date shall relate back to the date on which the secretary of state first received the document in acceptable form. An applicant may request a specific effective date no more than thirty days later than the receipt date which might otherwise be applied as the effective date. [1987 c 55 § 1; 1982 c 35 § 177; 1981 c 51 § 1.]

Intent—Severability—Effective dates—Application—1982 c 35:
See notes following RCW 43.07.160.

25.10.020 Name. (1) The name of each limited partnership formed pursuant to this chapter as set forth in its certificate of limited partnership:

(a) Shall contain the words "limited partnership" or the abbreviation "L.P.";

(b) May not contain the name of a limited partner unless (i) it is also the name of a general partner, or the corporate name of a corporate general partner, or (ii) the business of the limited partnership had been carried on under that name before the admission of that limited partner;

(c) May not contain any of the following words or phrases: "Bank", "banking", "banker", "trust", "cooperative"; or any combination of the words "industrial" and "loan"; or any combination of any two or more of the words "building", "savings", "loan", "home", "association" and "society"; or any other words or phrases prohibited by any statute of this state;

(d) Except as authorized by subsections (2) and (3) of this section, must be distinguishable upon the records of the secretary of state from:

(i) The name or reserved name of a foreign or domestic limited partnership;

(ii) The corporate name of a corporation incorporated or authorized to transact business in this state;

(iii) A corporate name reserved or registered under RCW 23B.04.020 or 23B.04.030;

(iv) The fictitious name adopted pursuant to RCW 23B.15.060 by a foreign corporation authorized to transact business in this state because its real name is unavailable; and

(v) The corporate name of a not-for-profit corporation incorporated or authorized to conduct affairs in this state.

(2) A limited partnership may apply to the secretary of state for authorization to use a name that is not distinguishable upon the records from one or more of the names described in subsection (1) of this section. The secretary of state shall authorize use of the name applied for if:

(a) The other limited partnership, corporation, or holder consents to the use in writing and files with the secretary of

state documents necessary to change its name or the name reserved or registered to a name that is distinguishable upon the records of the secretary of state from the name of the applying limited partnership; or

(b) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(3) A limited partnership may use the name, including the fictitious name, of another domestic or foreign limited partnership or corporation that is used in this state if the other limited partnership or corporation is organized, incorporated, or authorized to transact business in this state and the proposed user limited partnership:

(a) Has merged with the other limited partnership or corporation; or

(b) Results from reorganization with the other limited partnership or corporation.

(4) A name shall not be considered distinguishable upon the records of the secretary of state by virtue of:

(a) A variation in the designation, under subsection (1)(a) of this section, used for the same name;

(b) The addition or deletion of an article or conjunction such as "the" or "and" from the same name;

(c) Punctuation, capitalization, or special characters or symbols in the same name; or

(d) Use of abbreviation or the plural form of a word in the same name.

(5) This title does not control the use of assumed business names or "trade names." [1991 c 269 § 1; (1991 c 72 § 47 repealed by 1991 sp.s. c 11 § 2); 1987 c 55 § 2; 1981 c 51 § 2.]

Name of foreign limited partnership: RCW 25.10.510.

25.10.030 Reservation of name. (1) The exclusive right to the use of a name may be reserved by:

(a) Any person intending to organize a limited partnership under this chapter and to adopt that name;

(b) Any domestic limited partnership or any foreign limited partnership registered in this state which, in either case, intends to adopt that name;

(c) Any foreign limited partnership intending to register in this state and to adopt that name; and

(d) Any person intending to organize a foreign limited partnership and intending to have it registered in this state and adopt that name.

(2) The reservation shall be made by filing with the secretary of state an application, executed by the applicant, to reserve a specified name. If the secretary of state finds that the name is available for use by a domestic or foreign limited partnership, he or she shall reserve the name for the exclusive use of the applicant for a period of one hundred and eighty days. Such reservation shall be limited to one filing and shall be nonrenewable.

The right to the exclusive use of a reserved name may be transferred to any other person by filing in the office of the secretary of state a notice of the transfer, executed by the applicant for whom the name was reserved and specifying the name and address of the transferee. [1991 c 269 § 2; 1981 c 51 § 3.]

25.10.040 Registered office and agent. (1) Each limited partnership shall continuously maintain in this state an office which may but need not be a place of its business in this state, at which shall be kept the records required by RCW 25.10.050 to be maintained. The office shall be at a specific geographical location in this state and be identified by number, if any, and street or building address or rural route or other geographical address. The office shall not be identified only by post office box number or other nongeographic address. For purposes of communicating by mail, the secretary of state may permit the use of a post office address in conjunction with the office address.

(2) Each limited partnership shall continuously maintain in this state an agent for service of process on the limited partnership, which agent must be an individual resident of this state, a domestic corporation, or a foreign corporation authorized to do business in this state. The agent may, but need not, be located at the office identified in RCW 25.10.040(1). The agent's address shall be at a specific geographical location in this state and be identified by number, if any, and street or building address or rural route or other geographical address. The agent's address shall not be identified only by post office box number or other nongeographic address. For purposes of communicating by mail, the secretary of state may permit the use of a post office address in conjunction with the agent's geographic address.

(3) A registered agent shall not be appointed without having given prior written consent to the appointment. The written consent shall be filed with the secretary of state in such form as the secretary may prescribe. The written consent shall be filed with or as a part of the document first appointing a registered agent. In the event any individual or corporation has been appointed agent without consent, that person or corporation may file a notarized statement attesting to that fact, and the name shall forthwith be removed from the records of the secretary of state. The registered agent so appointed by a limited partnership shall be an agent of such limited partnership upon whom any process, notice, or demand required or permitted by law to be served upon the limited partnership may be served. If a limited partnership fails to appoint or maintain a registered agent in this state, or if its registered agent cannot with reasonable diligence be found, then the secretary of state shall be an agent of such limited partnership upon whom any such process, notice, or demand may be served. Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with the secretary of state, or with any authorized clerk of the corporation department of the secretary of state's office, duplicate copies of such process, notice, or demand. In the event any such process, notice, or demand is served on the secretary of state, the secretary of state shall immediately cause one of the copies thereof to be forwarded by certified mail, addressed to the limited partnership at the office referred to in RCW 25.10.040(1). Any service so had on the secretary of state shall be returnable in no fewer than thirty days.

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

Nothing in this section limits or affects the right to serve any process, notice, or demand required or permitted by law to be served upon a limited partnership in any other manner now or hereafter permitted by law.

Any registered agent may resign as such agent upon filing a written notice thereof, executed in duplicate, with the secretary of state, who shall forthwith mail one copy thereof to the limited partnership. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state. [1987 c 55 § 3; 1981 c 51 § 4.]

25.10.050 Records to be kept. Each limited partnership shall keep at the office referred to in RCW 25.10.040(1) the following:

(1) A current list of the full name and last known address of each partner, specifying separately the general and limited partners;

(2) A copy of the certificate of limited partnership and all certificates of amendment thereto, together with executed copies of any powers of attorney pursuant to which any certificate has been executed;

(3) Copies of the limited partnership's federal, state, and local tax returns and reports, if any, for the three most recent years;

(4) Copies of any then effective written partnership agreements and of any financial statements of the limited partnership for the three most recent years; and

(5) Unless contained in a written partnership agreement, a written statement of:

(a) The amount of cash and a description and statement of the agreed value of the other property or services contributed by each partner and which each partner has agreed to contribute;

(b) The times at which or events on the happening of which any additional contributions agreed to be made by each partner are to be made;

(c) Any right of a partner to receive, or of a general partner to make, distributions to a partner which include a return of all or any part of the partner's contribution; and

(d) Any events upon the happening of which the limited partnership is to be dissolved and its affairs wound up.

The books and records are subject to inspection and copying at the reasonable request, and at the expense, of any partner during ordinary business hours. [1987 c 55 § 4; 1981 c 51 § 5.]

25.10.060 Nature of business. A limited partnership may carry on any business that a partnership without limited partners may carry on. [1981 c 51 § 6.]

25.10.070 Business transactions of partner with the partnership. Except as provided in the partnership agreement, a partner may lend money to and transact other business with the limited partnership and, subject to other applicable law, has the same rights and obligations with respect thereto as a person who is not a partner. [1981 c 51 § 7.]

25.10.075 Indemnification of agents of any corporation authorized. See RCW 23B.17.030.

ARTICLE 2 FORMATION; CERTIFICATE OF LIMITED PARTNERSHIP

25.10.080 Certificate of limited partnership. (1) In order to form a limited partnership a certificate of limited partnership must be executed and duplicate originals filed in the office of the secretary of state. The certificate shall set forth:

(a) The name of the limited partnership;

(b) The address of the office for records and the name and address of the agent for service of process appointed pursuant to RCW 25.10.040;

(c) The name and the geographical and mailing addresses of each general partner;

(d) The latest date upon which the limited partnership is to dissolve; and

(e) Any other matters the general partners determine to include therein.

(2) A limited partnership is formed at the time of the filing of the certificate of limited partnership in the office of the secretary of state or at any later time specified in the certificate of limited partnership if, in either case, there has been substantial compliance with the requirements of this section. [1987 c 55 § 5; 1981 c 51 § 8.]

25.10.090 Amendment to certificate—Restatement of certificate. (1) A certificate of limited partnership is amended by filing duplicate originals of a certificate of amendment thereto in the office of the secretary of state. The certificate shall set forth:

(a) The name of the limited partnership;

(b) The date and place of filing of the original certificate of limited partnership; and

(c) The amendment to the certificate of limited partnership.

(2) Within thirty days after the happening of any of the following events an amendment to a certificate of limited partnership reflecting the occurrence of the event or events shall be filed:

(a) The admission of a new general partner;

(b) The withdrawal of a general partner;

(c) The continuation of the business under RCW 25.10.440 after an event of withdrawal of a general partner; or

(d) A change in the name of the limited partnership, a change in the office described in RCW 25.10.040(1), a change in the name or address of the agent for service of process, a change in the name or address of any general partner, or a change in the date upon which the limited partnership is to dissolve.

(3) A general partner who becomes aware that any statement in a certificate of limited partnership was false when made or that any arrangements or other facts described have changed, making the certificate inaccurate in any respect, shall promptly amend the certificate, but an amendment to show a change of address of a general partner need be filed only once every twelve months.

(4) A certificate of limited partnership may be amended at any time for any other proper purpose the general partners may determine.

(5) No person has any liability because an amendment to a certificate of limited partnership has not been filed to reflect the occurrence of any event referred to in subsection (2) of this section if the amendment is filed within the thirty-day period specified in subsection (2) of this section.

(6) A certificate of limited partnership is restated by filing duplicate originals of a certificate of restatement in the office of the secretary of state. The certificate shall set forth:

(a) The name of the limited partnership;

(b) The date and place of filing of the original certificate; and

(c) A statement setting forth all operative provisions of the certificate of limited partnership as theretofore amended together with a statement that the restated articles correctly set forth without change the provisions of the certificate of limited partnership as theretofore amended and that the restated certificate supersedes the original certificate and all amendments thereto. [1987 c 55 § 6; 1981 c 51 § 9.]

25.10.100 Cancellation of certificate. (1) Upon the dissolution and completion of winding up of a limited partnership or at any time there are no limited partners, duplicate originals of a certificate of cancellation shall be filed with the secretary of state and set forth:

(a) The name of the limited partnership;

(b) The date and place of filing of its original certificate of limited partnership;

(c) The reason for dissolution;

(d) The effective date, which shall be a later date certain, of cancellation if it is not to be effective upon the filing of the certificate; and

(e) Any other information the person filing the certificate determines.

(2) A certificate of limited partnership shall be canceled upon the effective date of a certificate of cancellation.

(3) A certificate of limited partnership for a domestic limited partnership which is not the surviving entity in a merger shall be canceled upon the effective date of the merger. [1991 c 269 § 3; 1987 c 55 § 7; 1981 c 51 § 10.]

25.10.110 Execution of documents. (1) Each document required by this article to be filed in the office of the secretary of state shall be executed in the following manner:

(a) Each original certificate of limited partnership must be signed by all general partners named therein;

(b) A certificate of amendment or restatement must be signed by at least one general partner and by each other general partner designated in the certificate as a new general partner;

(c) A certificate of cancellation must be signed by all general partners or the limited partners winding up the partnership pursuant to RCW 25.10.460;

(d) If a surviving domestic limited partnership is filing articles of merger, the articles of merger must be signed by at least one general partner of the domestic limited partnership, or if the articles of merger are being filed by a surviving foreign limited partnership or by a corporation, the articles of merger must be signed by a person authorized by such foreign limited partnership or corporation; and

(e) A foreign limited partnership's application for a certificate of authority must be signed by one of its general partners.

(2) Any person may sign a certificate, articles of merger, or partnership agreement by an attorney-in-fact: PROVIDED, That each document signed in such manner identifies the capacity in which the signator signed.

(3) The person executing the document shall sign it and state beneath or opposite the signature the name of the person and capacity in which the person signs. The document must be typewritten or printed, and must meet such legibility or other standards as may be prescribed by the secretary of state.

(4) The execution of a certificate or articles of merger by a partner constitutes an affirmation under the penalties of perjury that the facts stated therein are true. [1991 c 269 § 4; 1987 c 55 § 8; 1981 c 51 § 11.]

25.10.120 Execution of certificate by judicial act. If a person required by RCW 25.10.110 to execute a certificate fails or refuses to do so, any other person who is adversely affected by the failure or refusal, may petition any court of competent jurisdiction to direct the execution. If the court finds that it is proper for the certificate to be executed and that any person so designated has failed or refused to execute the certificate, the court shall order the secretary of state to record an appropriate certificate. [1987 c 55 § 9; 1981 c 51 § 12.]

25.10.130 Filing in office of secretary of state. (1) Two signed copies of the certificate of limited partnership and of any certificates of amendment, restatement, or cancellation (or of any judicial decree of amendment or cancellation) shall be delivered to the secretary of state. A person who executes a certificate as an agent or fiduciary need not exhibit evidence of his authority as a prerequisite to filing. Unless the secretary of state finds that any certificate does not conform to law, upon receipt of all filing fees required by law the secretary of state shall:

(a) Endorse on each duplicate original the word "Filed" and the effective date of the filing;

(b) File one duplicate original; and

(c) Return the other duplicate original to the person who filed it or the person's representative.

(2) Upon the filing of a certificate of amendment or restatement, or judicial decree of amendment, in the office of the secretary of state, the certificate of limited partnership shall be amended or restated as set forth therein, and upon the effective date of a certificate of cancellation or a judicial decree thereof, the certificate of limited partnership is canceled. [1991 c 269 § 5; 1987 c 55 § 10; 1982 c 35 § 178; 1981 c 51 § 13.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

25.10.140 Liability for false statement in certificate. If any certificate of limited partnership or certificate of amendment, restatement, or cancellation contains a false statement, one who suffers loss by reliance on the statement may recover damages for the loss from:

(1) Any person who executes the certificate, or causes another to execute it on his behalf, and knew, and any general partner who knew or should have known, the statement to be false at the time the certificate was executed; and

(2) Any general partner who thereafter knows or should have known that any arrangement or other fact described in the certificate has changed, making the statement inaccurate in any respect within a sufficient time before the statement was relied upon reasonably to have enabled that general partner to cancel or amend the certificate, or to file a petition for its cancellation or amendment under RCW 25.10.120. [1991 c 269 § 6; 1987 c 55 § 11; 1981 c 51 § 14.]

25.10.150 Notice. (1) The fact that a certificate of limited partnership is on file in the office of the secretary of state is notice that the partnership is a limited partnership and the persons designated therein as general partners are general partners, but is not notice of any other fact.

(2) A restated certificate of limited partnership shall be notice that the prior certificate of limited partnership and all amendments thereto are superseded. [1987 c 55 § 12; 1981 c 51 § 15.]

25.10.160 Delivery of certificates to limited partners. Upon the return by the secretary of state pursuant to RCW 25.10.130 of a certificate marked "Filed", the general partners shall promptly deliver or mail a copy of the certificate of limited partnership and each certificate of amendment, restatement, or cancellation to each limited partner unless the partnership agreement provides otherwise. [1991 c 269 § 7; 1987 c 55 § 13; 1981 c 51 § 16.]

ARTICLE 3 LIMITED PARTNERS

25.10.170 Admission of limited partners. (1) A person becomes a limited partner on the later of:

(a) The date the original certificate of limited partnership is filed; or

(b) The date stated in the records of the limited partnership as the date that person becomes a limited partner.

(2) After the filing of a limited partnership's original certificate of limited partnership, a person may be admitted as an additional limited partner:

(a) In the case of a person acquiring a partnership interest directly from the limited partnership, upon the compliance with the partnership agreement or, if the partnership agreement does not so provide, upon the written consent of all partners; and

(b) In the case of an assignee of a partnership interest of a partner who has the power, as provided in RCW 25.10.420, to grant the assignee the right to become a limited partner, upon the exercise of that power and compliance with any conditions limiting the grant or exercise of the power. [1987 c 55 § 14; 1981 c 51 § 17.]

25.10.180 Voting. Subject to RCW 25.10.190, the partnership agreement may grant to all or a specified group of the limited partners the right to vote on a per capita or other basis upon any matter. [1981 c 51 § 18.]

25.10.190 Liability to third parties. (1) Except as provided in subsection (4) of this section, a limited partner is not liable for the obligations of a limited partnership unless the limited partner is also a general partner or, in addition to the exercise of rights and powers as a limited partner, the limited partner participates in the control of the business. However, if the limited partner participates in the control of the business, the limited partner is liable only to persons who transact business with the limited partnership reasonably believing, based upon the limited partner's conduct, that the limited partner is a general partner.

(2) A limited partner does not participate in the control of the business within the meaning of subsection (1) of this section solely by doing one or more of the following:

(a) Being a contractor for or an agent or employee of the limited partnership or of a general partner, or being an officer, director, or shareholder of a general partner that is a corporation;

(b) Consulting with and advising a general partner with respect to the business of the limited partnership;

(c) Acting as surety for the limited partnership or guaranteeing or assuming one or more specific obligations of the limited partnership or providing collateral for partnership obligations;

(d) Taking any action required or permitted by law to bring or pursue a derivative action in the right of the limited partnership;

(e) Requesting or attending a meeting of partners;

(f) Proposing, approving, or disapproving, by voting or otherwise, on one or more of the following matters:

(i) The dissolution and winding up of the limited partnership;

(ii) The sale, exchange, lease, mortgage, pledge, or other transfer of all or substantially all of the assets of the limited partnership;

(iii) The incurrence of indebtedness by the limited partnership other than in the ordinary course of its business;

(iv) A change in the nature of its business;

(v) The admission or removal of a limited partner;

(vi) The admission or removal of a general partner;

(vii) A transaction involving an actual or potential conflict of interest between a general partner and the limited partnership or the limited partners;

(viii) An amendment to the partnership agreement or certificate of limited partnership; or

(ix) Matters related to the business of the limited partnership not otherwise enumerated in this subsection (2), that the partnership agreement states in writing may be subject to the approval or disapproval of limited partners or a committee of limited partners;

(g) Winding up the limited partnership pursuant to RCW 25.10.460 or conducting the affairs of the limited partnership during any portion of the ninety days referred to in RCW 25.10.440; or

(h) Exercising any right or power permitted to limited partners under this chapter and not specifically enumerated in this subsection (2).

(3) The enumeration in subsection (2) of this section does not mean that the possession or exercise of any other powers by a limited partner constitutes participation by him in the control of the business of the limited partnership.

(4) A limited partner who knowingly permits his name to be used in the name of the limited partnership, except under circumstances permitted by *RCW 25.10.020(2), is liable to creditors who extend credit to the limited partnership without actual knowledge that the limited partner is not a general partner. [1987 c 55 § 15; 1981 c 51 § 19.]

*Reviser's note: RCW 25.10.020 was amended by 1991 c 269 § 1, changing subsection (2) to subsection (1)(b).

25.10.200 Person erroneously believing that he or she is limited partner. (1) Except as provided in subsection (2) of this section, a person who makes a contribution to a business enterprise and erroneously but in good faith believes that he or she has become a limited partner in the enterprise is not a general partner in the enterprise and is not bound by its obligations by reason of making the contribution, receiving distributions from the enterprise, or exercising any rights of a limited partner, if, within a reasonable time after ascertaining the mistake, the person:

(a) Causes an appropriate certificate of limited partnership or a certificate of amendment to be executed and filed; or

(b) Withdraws from future equity participation in the enterprise by executing and filing in the office of the secretary of state a certificate or statement declaring withdrawal under this section.

(2) A person who makes a contribution of the kind described in subsection (1) of this section is liable as a general partner to any third party who transacts business with the enterprise (a) before the person withdraws and an appropriate certificate is filed to show withdrawal, or (b) before an appropriate certificate is filed to show that the person is not a general partner, but in either case only if the third party actually believed in good faith that the person was a general partner at the time of the transaction. [1987 c 55 § 16; 1983 c 302 § 1; 1981 c 51 § 20.]

25.10.210 Information. Each limited partner or limited partner's agent or attorney has the right to:

(1) Inspect and copy any of the partnership records required to be maintained by RCW 25.10.050; and

(2) Obtain from the general partners from time to time upon reasonable demand (a) true and full information regarding the state of the business and financial condition of the limited partnership, (b) promptly after becoming available, a copy of the limited partnership's federal income tax returns and state business and occupation tax return for each year, and (c) other information regarding the affairs of the limited partnership as is just and reasonable. [1991 c 269 § 10; 1987 c 55 § 17; 1981 c 51 § 21.]

ARTICLE 4 GENERAL PARTNERS

25.10.220 Admission of additional general partners. Unless otherwise provided in the partnership agreement, after the filing of a limited partnership's original certificate of limited partnership, additional general partners may be admitted only with the specific written consent of each partner. [1981 c 51 § 22.]

25.10.230 Events of withdrawal of general partner.

Except as approved by the specific written consent of all partners at the time, a person ceases to be a general partner of a limited partnership upon the happening of any of the following events:

(1) The general partner withdraws from the limited partnership as provided in RCW 25.10.320;

(2) The general partner ceases to be a member of the limited partnership as provided in RCW 25.10.400;

(3) The general partner is removed as a general partner in accordance with the partnership agreement;

(4) Unless otherwise provided in writing in the partnership agreement, the general partner:

(a) Makes an assignment for the benefit of creditors;

(b) Files a voluntary petition in bankruptcy;

(c) Is adjudicated a bankrupt or insolvent;

(d) Files a petition or answer seeking for himself or herself any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation;

(e) Files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against him or her in any proceeding of this nature; or

(f) Seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the general partner or of all or any substantial part of his or her properties;

(5) Unless otherwise provided in the certificate of limited partnership, ninety days after the commencement of any proceeding against the general partner seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, the proceeding has not been dismissed, or if within sixty days after the appointment without the general partner's consent or acquiescence of a trustee, receiver, or liquidator of the general partner of all or any substantial part of his or her properties, the appointment is not vacated or stayed, or within sixty days after the expiration of any such stay, the appointment is not vacated;

(6) In the case of a general partner who is a natural person:

(a) His or her death; or

(b) The entry by a court of competent jurisdiction adjudicating the general partner incompetent to manage his or her person or estate;

(7) In the case of a general partner who is acting as a general partner by virtue of being a trustee of a trust, the termination of the trust (but not merely the substitution of a new trustee);

(8) In the case of a general partner that is a separate partnership, the dissolution and commencement of winding up of the separate partnership;

(9) In the case of a general partner that is a corporation, the filing of a certificate of dissolution, or its equivalent, for the corporation or the revocation of its charter; or

(10) In the case of an estate, the distribution by the fiduciary of the estate's entire interest in the partnership. [1987 c 55 § 18; 1981 c 51 § 23.]

25.10.240 General powers and liabilities of general partner. (1) Except as provided in this chapter or in the partnership agreement, a general partner of a limited partner-

ship has the rights and powers and is subject to the restrictions of a partner in a partnership without limited partners.

(2) Except as provided in this chapter, a general partner of a limited partnership has the liabilities of a partner in a partnership without limited partners to persons other than the limited partnership and the other partners. Except as provided in this chapter or in the partnership agreement, a general partner of a limited partnership has the liabilities of a partner in a partnership without limited partners to the limited partnership and to the other partners. [1987 c 55 § 19; 1983 c 302 § 2; 1981 c 51 § 24.]

25.10.250 Contributions by a general partner. A general partner of a limited partnership may make contributions to the limited partnership and share in the profits and losses of, and in distributions from, the limited partnership as a general partner. A general partner also may make contributions to and share in profits, losses, and distributions as a limited partner. A person who is both a general partner and a limited partner has the rights and powers, and is subject to the restrictions and liabilities, of a general partner and, except as provided in the partnership agreement, also has the powers, and is subject to the restrictions, of a limited partner to the extent of his or her participation in the partnership as a limited partner. [1987 c 55 § 20; 1981 c 51 § 25.]

25.10.260 Voting. The partnership agreement may grant to all or certain identified general partners the right to vote on a per capita or any other basis, separately or with all or any class of the limited partners, on any matter. [1981 c 51 § 26.]

ARTICLE 5 FINANCE

25.10.270 Form of contribution. The contribution of a partner may be in cash, property, or services rendered, or a promissory note or other obligation to contribute cash or property or to perform services. [1981 c 51 § 27.]

Prospective application: RCW 25.10.650.

25.10.280 Liability for contributions. (1) Except as provided in the partnership agreement, a partner is obligated to the limited partnership to perform any promise to contribute cash or property or to perform services, even if the partner is unable to perform because of death, disability, or any other reason. If a partner does not make the required contribution of property or services, the partner is obligated at the option of the limited partnership to contribute cash equal to that portion of the value, as stated in the partnership agreement or, if not stated in the agreement, in the limited partnership records required to be kept pursuant to RCW 25.10.050(5), of the stated contribution that has not been made.

(2) Unless otherwise provided in the partnership agreement, the obligation of a partner to make a contribution or return money or other property paid or distributed in violation of this chapter may be compromised only by consent of all the partners. Notwithstanding the compromise, a creditor of a limited partnership who extends credit,

or whose claim arises, after the entering into of a partnership agreement or an amendment thereto which, in either case, reflects the obligation, and before the amendment or cancellation thereof to reflect the compromise, may enforce the original obligation to the extent that, in extending credit, the creditor reasonably relied on the obligation of a partner to make a contribution. [1987 c 55 § 21; 1981 c 51 § 28.]

Prospective application: RCW 25.10.650.

25.10.290 Sharing of profits and losses. The profits and losses of a limited partnership shall be allocated among the partners, and among classes of partners, in the manner provided in the partnership agreement. If the partnership agreement does not so provide, profits and losses shall be allocated on the basis of the value, as stated in the partnership agreement or, if not stated therein, in the limited partnership records required to be kept pursuant to RCW 25.10.050(5), of the contributions made by each partner to the extent they have been received by the limited partnership and have not been returned. [1987 c 55 § 22; 1981 c 51 § 29.]

25.10.300 Sharing of distributions. Distributions of cash or other assets of a limited partnership shall be allocated among the partners, and among classes of partners, in the manner provided in the partnership agreement. If the partnership agreement does not so provide, distributions shall be made on the basis of the value, as stated in the partnership agreement or, if not stated therein, in the limited partnership records required to be kept pursuant to RCW 25.10.050(5), of the contributions made by each partner to the extent they have been received by the limited partnership and have not been returned. [1987 c 55 § 23; 1981 c 51 § 30.]

ARTICLE 6 DISTRIBUTIONS AND WITHDRAWAL

25.10.310 Interim distributions. Except as provided in this article, a partner is entitled to receive distributions from a limited partnership before the partner's withdrawal from the limited partnership and before the dissolution and winding up thereof to the extent and at the times or upon the happening of the events specified in the partnership agreement. [1987 c 55 § 24; 1982 c 35 § 179; 1981 c 51 § 31.]

Intent—Severability—Effective dates—Application—1982 c 35:
See notes following RCW 43.07.160.

25.10.320 Withdrawal of general partner. A general partner may withdraw from a limited partnership at any time by giving written notice to the other partners, but if the withdrawal violates the partnership agreement, the limited partnership may recover from the withdrawing general partner damages for breach of the partnership agreement and offset the damages against the amount otherwise distributable to him. [1981 c 51 § 32.]

25.10.330 Withdrawal of limited partner. A limited partner may withdraw from a limited partnership at the time or upon the happening of events specified in and in accordance with the partnership agreement. If the partnership

agreement does not specify the time or the events upon the happening of which a limited partner may withdraw or a definite time for the dissolution and winding up of the limited partnership, a limited partner may withdraw upon not less than six months' prior written notice to each general partner at that partner's address on the books of the limited partnership at its office in this state. [1987 c 55 § 25; 1981 c 51 § 33.]

25.10.340 Distribution upon withdrawal. Except as provided in this article, upon withdrawal any withdrawing partner is entitled to receive any distribution to which he or she is entitled under the partnership agreement and, if not otherwise provided in the partnership agreement, the partner is entitled to receive, within a reasonable time after withdrawal, the fair value of his or her interest in the limited partnership as of the date of withdrawal based upon his or her right to share in distributions from the limited partnership. [1987 c 55 § 26; 1981 c 51 § 34.]

25.10.350 Distribution in kind. Except as provided in the partnership agreement, a partner, regardless of the nature of his or her contribution, has no right to demand and receive any distribution from a limited partnership in any form other than cash. Except as provided in the partnership agreement, a partner may not be compelled to accept a distribution of any asset in kind from a limited partnership to the extent that the percentage of the asset distributed to the partner exceeds a percentage of that asset which is equal to the percentage in which he or she shares in distributions from the limited partnership. [1987 c 55 § 27; 1981 c 51 § 35.]

25.10.360 Right to distribution. At the time a partner becomes entitled to receive a distribution, he has the status of and is entitled to all remedies available to a creditor of the limited partnership with respect to the distribution. [1981 c 51 § 36.]

25.10.370 Limitations on distributions. (1) A limited partnership shall not make a distribution to a partner to the extent that at the time of the distribution, after giving effect to the distribution, (a) the limited partnership would not be able to pay its debts as they become due in the usual course of business, or (b) all liabilities of the limited partnership, other than liabilities to partners on account of their partnership interests and liabilities for which the recourse of creditors is limited to specified property of the limited partnership, exceed the fair value of the assets of the limited partnership, except that the fair value of property that is subject to a liability for which the recourse of creditors is limited shall be included in the assets of the limited partnership only to the extent that the fair value of that property exceeds that liability.

(2)(a) A limited partner who receives a distribution in violation of subsection (1) of this section, and who knew at the time of the distribution that the distribution violated subsection (1) of this section, shall be liable to the limited partnership for the amount of the distribution.

(b) A limited partner who receives a distribution in violation of subsection (1) of this section, and who did not

know at the time of the distribution that the distribution violated subsection (1) of this section, shall not be liable for the amount of the distribution. This subsection (2)(b) shall not affect any obligation or liability of a limited partner under a partnership agreement or other applicable law for the amount of a distribution.

(3) A limited partner who receives a distribution from a limited partnership shall have no liability under this chapter for the amount of the distribution after the expiration of three years from the date of the distribution, except to the extent such limited partner shall have agreed in writing to extend liability beyond the expiration of the three-year period. [1991 c 269 § 29; 1987 c 55 § 28; 1981 c 51 § 37.]

ARTICLE 7

ASSIGNMENT OF PARTNERSHIP INTERESTS

25.10.390 Nature of partnership interest. A partnership interest is personal property. [1981 c 51 § 39.]

25.10.400 Assignment of partnership interest—Certificate of partnership interest. (1) Unless otherwise provided in the partnership agreement:

(a) A partnership interest is assignable in whole or in part;

(b) An assignment of a partnership interest does not dissolve a limited partnership or entitle the assignee to become or to exercise any rights or powers of a partner;

(c) An assignment entitles the assignee to share in such profits and losses, to receive such distribution or distributions, and to receive such allocation of income, gain, loss, deduction, or credit or similar item to which the assignor was entitled, to the extent assigned; and

(d) A partner ceases to be a partner and to have the power to exercise any rights or powers of a partner upon assignment of all of his or her partnership interest.

(2) The partnership agreement may provide that a partner's interest in a limited partnership may be evidenced by a certificate of partnership interest issued by the limited partnership and may also provide for the assignment or transfer of any partnership interest represented by such a certificate and make other provisions with respect to such certificates. [1987 c 55 § 30; 1981 c 51 § 40.]

25.10.410 Rights of creditor. On application to a court of competent jurisdiction by any judgment creditor of a partner, the court may charge the partnership interest of the partner with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of the partnership interest. This chapter does not deprive any partner of the benefit of any exemption laws applicable to his partnership interest. [1981 c 51 § 41.]

25.10.420 Right of assignee to become limited partner. (1) An assignee of a partnership interest, including an assignee of a general partner, may become a limited partner if and to the extent that (a) the assignor gives the assignee that right in accordance with authority described in the partnership agreement, or (b) all other partners consent.

(2) An assignee who has become a limited partner has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a limited partner under the partnership agreement and this chapter. An assignee who becomes a limited partner also is liable for the obligations of his or her assignor to make and return contributions as provided in Articles 5 and 6 of this chapter. However, the assignee is not obligated for liabilities unknown to the assignee at the time he or she became a limited partner.

(3) If an assignee of a partnership interest becomes a limited partner, the assignor is not released from his or her liability to the limited partnership under RCW 25.10.140 and 25.10.280. [1987 c 55 § 31; 1981 c 51 § 42.]

Prospective application: RCW 25.10.650.

25.10.430 Power of estate of deceased or incompetent partner. If a partner who is an individual dies or a court of competent jurisdiction adjudges him to be incompetent to manage his person or his property, the partner's executor, administrator, guardian, conservator, or other legal representative may exercise all of the partner's rights for the purpose of settling the partner's estate or administering the partner's property, including any power the partner had to give an assignee the right to become a limited partner. If a partner is a corporation, trust, or other entity and is dissolved or terminated, the powers of that partner may be exercised by its legal representative or successor. [1981 c 51 § 43.]

ARTICLE 8 DISSOLUTION

25.10.440 Nonjudicial dissolution. A limited partnership is dissolved and its affairs shall be wound up upon the happening of the first to occur of the following:

(1) At the time specified in the certificate of limited partnership;

(2) Upon the happening of events specified in the partnership agreement;

(3) Written consent of all partners;

(4) An event of withdrawal of a general partner unless at the time there is at least one other general partner and the partnership agreement permits the business of the limited partnership to be carried on by the remaining general partner and that partner does so, but the limited partnership is not dissolved and is not required to be wound up by reason of any event of withdrawal if, within ninety days after the withdrawal, all partners agree in writing to continue the business of the limited partnership and to the appointment of one or more additional general partners if necessary or desired;

(5) Entry of a decree of judicial dissolution under RCW 25.10.450; or

(6) Administrative dissolution under RCW 25.10.455. [1991 c 269 § 30; 1987 c 55 § 32; 1981 c 51 § 44.]

25.10.450 Judicial dissolution. On application by or for a partner, the superior courts may decree dissolution of a limited partnership whenever: (1) It is not reasonably practicable to carry on the business in conformity with the partnership agreement; or (2) when other circumstances render dissolution equitable. [1981 c 51 § 45.]

25.10.453 Administrative dissolution—Commencement of proceeding. The secretary of state may commence a proceeding under RCW 25.10.455 to administratively dissolve a limited partnership if:

(1) An amendment to the certificate of limited partnership required by RCW 25.10.090(2)(c) is not filed when specified by that provision;

(2) The limited partnership is without a registered agent or registered office in this state for sixty days or more; or

(3) The limited partnership does not notify the secretary of state within sixty days that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued. [1991 c 269 § 31.]

25.10.455 Administrative dissolution—Notice—Opportunity to correct deficiencies. (1) If the secretary of state determines that one or more grounds exist under RCW 25.10.453 for dissolving a limited partnership, the secretary of state shall give the limited partnership written notice of the determination by first class mail, postage prepaid reciting the grounds therefor. Notice shall be sent to the address of the office for records and address of the agent for service of process contained in the certificate having this information which is most recently filed with the secretary of state.

(2) If the limited partnership does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within sixty days after notice is sent, the limited partnership is thereupon dissolved, the secretary of state shall give the limited partnership written notice of the dissolution that recites the ground or grounds therefor and its effective date.

(3) A limited partnership administratively dissolved continues its limited partnership existence but may not carry on any business except that necessary to wind up and liquidate its business and affairs.

(4) The administrative dissolution of a limited partnership does not terminate the authority of its registered agent. [1991 c 269 § 32.]

25.10.457 Administrative dissolution—Reinstatement—Application—When effective. (1) A limited partnership administratively dissolved under RCW 25.10.455 may apply to the secretary of state for reinstatement within two years after the effective date of dissolution. The application must:

(a) Recite the name of the limited partnership and the effective date of its administrative dissolution;

(b) State that the ground or grounds for dissolution either did not exist or have been eliminated; and

(c) State that the limited partnership's name satisfies the requirements of RCW 25.10.020.

(2) If the secretary of state determines that the application contains the information required by subsection (1) of this section and that the name is available, the secretary of state shall reinstate the limited partnership and give the limited partnership written notice, as provided in RCW 25.10.455(1) of the reinstatement that recites the effective date of reinstatement. If the name is not available, the limited partnership must file with its application for rein-

statement an amendment to its certificate of limited partnership reflecting a change of name.

(3) When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the limited partnership may resume carrying on its business as if the administrative dissolution had never occurred.

(4) If an application for reinstatement is not made within the two-year period set forth in subsection (1) of this section, or if the application made within this period is not granted, the secretary of state shall cancel the limited partnership's certificate of limited partnership. [1991 c 269 § 33.]

25.10.460 Winding up. Except as provided in the partnership agreement, the general partners who have not wrongfully dissolved a limited partnership or, if none, the limited partners, may wind up the limited partnership's affairs. The superior courts may wind up the limited partnership's affairs upon application of any partner, that partner's legal representative, or assignee. [1981 c 51 § 46.]

25.10.470 Distribution of assets. Upon the winding up of a limited partnership, the assets shall be distributed as follows:

(1) To creditors, including partners who are creditors, to the extent otherwise permitted by law, in satisfaction of liabilities of the limited partnership other than liabilities for distribution to partners under RCW 25.10.310 or 25.10.340;

(2) Except as provided in the partnership agreement, to partners and former partners in satisfaction of liabilities for distributions under RCW 25.10.310 or 25.10.340; and

(3) Except as provided in the partnership agreement, to partners first for the return of their contributions and secondly respecting their partnership interests, in the proportions in which the partners share in distributions. [1981 c 51 § 47.]

ARTICLE 9 FOREIGN LIMITED PARTNERSHIPS

25.10.480 Law governing. Subject to the Constitution of the state of Washington, (1) the laws of the state, province, or other jurisdiction under which a foreign limited partnership is organized govern its organization and internal affairs and the liability of its limited partners, and (2) a foreign limited partnership may not be denied registration by reason of any difference between those laws and the laws of this state. [1981 c 51 § 48.]

25.10.490 Registration. Before transacting business in this state, a foreign limited partnership shall register with the secretary of state. In order to register, a foreign limited partnership shall submit to the secretary of state, in duplicate, an application for registration as a foreign limited partnership, signed and sworn to by a general partner and setting forth:

(1) The name of the foreign limited partnership as set forth in its certificate of limited partnership and, if different, the name under which it proposes to register and transact business in this state;

(2) The state, province, or other jurisdiction under which the foreign limited partnership was organized and the date of its formation;

(3) The name and address of any agent for service of process on the foreign limited partnership whom the foreign limited partnership appoints pursuant to RCW 25.10.040(2) and (3). The agent must be an individual resident of this state, a domestic corporation, or a foreign corporation having a place of business in, and authorized to do business in this state;

(4) A statement that the secretary of state is appointed the agent of the foreign limited partnership for service of process if the agent's authority has been revoked or if the agent cannot be found or served with the exercise of reasonable diligence;

(5) The address of the office required to be maintained in the state or other jurisdiction of its organization by the laws of that state or other jurisdiction or, if not so required, of the principal office of the foreign limited partnership;

(6) The name and business address of each general partner;

(7) The addresses of the office at which a list is kept of the names and addresses of the limited partners and their capital contributions, together with an undertaking by the foreign limited partnership to keep those records until the foreign limited partnership's registration in this state is canceled; and

(8) If the foreign limited partnership was organized under laws of a jurisdiction other than another state, a copy of a written partnership agreement, in English language. [1987 c 55 § 33; 1981 c 51 § 49.]

25.10.500 Issuance of registration. (1) If the secretary of state finds that an application for registration conforms to law and all requisite fees have been paid, the secretary shall:

(a) Endorse on the application the word "Filed", and the month, day, and year of the filing thereof;

(b) File in his or her office a duplicate original of the application; and

(c) Issue a certificate of registration to transact business in this state.

(2) The certificate of registration, together with a duplicate original of the application, shall be returned to the person who filed the application or his representative. [1981 c 51 § 50.]

25.10.510 Name—Foreign limited partnership. A foreign limited partnership may register with the secretary of state under any name, whether or not it is the name under which it is registered in its place of organization, that includes the words "limited partnership" or the abbreviation "L.P." and that could be registered by a domestic limited partnership. [1987 c 55 § 34; 1981 c 51 § 51.]

Name of limited partnership: RCW 25.10.020, 25.10.030.

25.10.520 Changes and amendments. If any statement in the application for registration of a foreign limited partnership was false when made or any arrangements or other facts described have changed, making the application inaccurate in any respect, the general partner of

the foreign limited partnership shall promptly file in the office of the secretary of state a certificate, signed and sworn to by a general partner, correcting such statement. [1981 c 51 § 52.]

25.10.530 Cancellation of registration. A foreign limited partnership may cancel its registration by filing with the secretary of state a certificate of cancellation signed and sworn to by a general partner. A cancellation does not terminate the authority of the secretary of state to accept service of process on the foreign limited partnership with respect to causes of action arising out of the transactions of business in this state. [1981 c 51 § 53.]

25.10.540 Transaction of business without registration. (1) A foreign limited partnership transacting business in this state may not maintain any action, suit, or proceeding in any court of this state until it has registered in this state.

(2) The failure of a foreign limited partnership to register in this state does not impair the validity of any contract or act of the foreign limited partnership or prevent the foreign limited partnership from defending any action, suit, or proceeding in any court of this state.

(3) A limited partner of a foreign limited partnership is not liable as a general partner of the foreign limited partnership solely by reason of having transacted business in this state without registration.

(4) Without excluding other activities which may not constitute transacting business in this state, a foreign limited partnership shall not be considered to be transacting business in this state, for the purposes of this title, by reason of carrying on in this state any one or more of the following activities:

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

(b) Holding meetings of its partners or carrying on other activities concerning its internal affairs.

(c) Maintaining bank accounts.

(d) Maintaining offices or agencies for the transfer, exchange, and registration of its interests, or appointing and maintaining trustees or depositaries with relation to its interests.

(e) Effecting sales through independent contractors.

(f) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where such orders require acceptance without this state before becoming binding contracts.

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

(h) Securing or collecting debts or enforcing any rights in property securing the same.

(i) Transacting any business in interstate commerce.

(j) Conducting an isolated transaction completed within a period of thirty days and not in the course of a number of repeated transactions of like nature.

(5) A foreign limited partnership, by transacting business in this state without registration, appoints the secretary of state as its agent for service of process with respect to causes of action arising out of the transaction of business in this state. [1981 c 51 § 54.]

25.10.550 Action by secretary of state. The secretary of state may bring an action to restrain a foreign limited partnership from transacting business in this state in violation of this article. [1981 c 51 § 55.]

25.10.553 Revocation of registration—Commencement of proceeding. The secretary of state may commence a proceeding under *section 45 of this act to revoke registration of a foreign limited partnership authorized to transact business in this state if:

(1) The foreign limited partnership is without a registered agent or registered office in this state for sixty days or more;

(2) The foreign limited partnership does not inform the secretary of state under RCW 25.10.520 that its registered agent or registered office has changed, that its registered agent has resigned, or that its registered office has been discontinued within sixty days of the change, resignation, or discontinuance;

(3) A general partner or other agent of the foreign limited partnership signed a document knowing it was false in any material respect with intent that the document be delivered to the secretary of state for filing; or

(4) The secretary of state receives a duly authenticated certificate from the secretary of state or other official having custody of partnership records in the jurisdiction under which the foreign limited partnership was organized stating that the foreign limited partnership has been dissolved or its limited partnership certificate canceled. [1991 c 269 § 43.]

*Reviser's note: The reference to section 45 of this act is incorrect. Section 44 of the act, codified as RCW 25.10.555, was apparently intended.

25.10.555 Revocation of registration—Notice—Opportunity to correct deficiencies. (1) If the secretary of state determines that one or more grounds exist under RCW 25.10.553 for revocation of a foreign limited partnership's registration, the secretary of state shall give the foreign limited partnership written notice of the determination by first class mail, postage prepaid, stating in the notice the ground or grounds for and effective date of the secretary of state's determination, which date shall not be earlier than the date on which the notice is mailed.

(2) If the foreign limited partnership does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within sixty days after notice is effective, the secretary of state shall revoke the foreign limited partnership's registration by signing a certificate of revocation that recites the ground or grounds for revocation and its effective date. The secretary of state shall file the original of the certificate and mail a copy to the foreign limited partnership.

(3) Documents to be mailed by the secretary of state to a foreign limited partnership for which provision is made in this section shall be sent to the foreign limited partnership at the address of the agent for service of process contained in the application or certificate of this partnership which is most recently filed with the secretary of state.

(4) The authority of a foreign limited partnership to transact business in this state ceases on the date shown on the certificate revoking its registration.

(5) The secretary of state's revocation of a foreign limited partnership's registration appoints the secretary of state the foreign limited partnership's agent for service of process in any proceeding based on a cause of action which arose during the time the foreign limited partnership was authorized to transact business in this state.

(6) Revocation of a foreign limited partnership's registration does not terminate the authority of the registered agent of the foreign limited partnership. [1991 c 269 § 44.]

ARTICLE 10 DERIVATIVE ACTIONS

25.10.560 Right of action. A limited partner may bring an action in the right of a limited partnership to recover a judgment in its favor if general partners with authority to do so have refused to bring the action or if an effort to cause those general partners to bring the action is not likely to succeed. [1981 c 51 § 56.]

25.10.570 Proper plaintiff. In a derivative action, the plaintiff must be a partner at the time of bringing the action and (1) at the time of the transaction of which he complains or (2) his status as a partner had devolved upon him by operation of law or pursuant to the terms of the partnership agreement from a person who was a partner at the time of the transaction. [1981 c 51 § 57.]

25.10.580 Pleading. In a derivative action, the complaint shall set forth with particularity the effort of the plaintiff to secure initiation of the action by a general partner or the reasons for not making the effort. [1981 c 51 § 58.]

25.10.590 Expenses. If a derivative action is successful, in whole or in part, or if anything is received by the plaintiff as a result of a judgment, compromise, or settlement of an action or claim, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees, and shall direct the plaintiff to remit to the limited partnership the remainder of those proceeds received by him. [1981 c 51 § 59.]

ARTICLE 11 FEES AND CHARGES

25.10.600 Establishment of filing fees and miscellaneous charges. The secretary of state shall adopt rules establishing fees which shall be charged and collected for:

- (1) Filing of a certificate of limited partnership for a domestic or foreign limited partnership;
- (2) Filing of a certificate of cancellation for a domestic or foreign limited partnership;
- (3) Filing of a certificate of amendment or restatement for a domestic or foreign limited partnership;
- (4) Filing an application to reserve or transfer a limited partnership name;
- (5) Filing any other statement or report authorized or permitted to be filed;
- (6) Copies, certified copies, certificates, service of process filings, and expedited filings or other special services.

In the establishment of a fee schedule, the secretary of state shall, insofar as is possible and reasonable, be guided by the fee schedule provided for corporations registering pursuant to Title 23B RCW. Fees for copies, certified copies, certificates of record, and service of process filings shall be as provided for in RCW 23B.01.220.

All fees collected by the secretary of state shall be deposited with the state treasurer pursuant to law. [1991 c 269 § 12; 1991 c 72 § 48; 1987 c 55 § 35; 1981 c 51 § 60.]

Reviser's note: This section was amended by 1991 c 72 § 48 and by 1991 c 269 § 12, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

25.10.605 Fees for services by secretary of state. See RCW 43.07.120.

ARTICLE 12 MISCELLANEOUS

25.10.610 Authority to adopt rules. The secretary of state shall adopt such rules as are necessary to implement the transfer of duties and records required by this chapter including rules providing for the transfer of existing certificates from the counties to the secretary. [1981 c 51 § 61.]

25.10.620 Construction and application. This chapter shall be so applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it. [1981 c 51 § 62.]

25.10.630 Short title. This chapter may be cited as the Washington uniform limited partnership act. [1981 c 51 § 63.]

25.10.640 Severability. If any provision of *this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of the act are severable. [1981 c 51 § 64.]

***Reviser's note:** "this act," see note following chapter digest.

25.10.650 Effective date and extended effective date. Except as set forth below, the effective date of this act is January 1, 1982:

(1) The existing provisions for execution and filing of certificates of limited partnerships and amendments thereunder and cancellations thereof continue in effect until October 1, 1982, the extended effective date, and sections 2, 3, 4, 5, 8, 9, 10, 11, and 13 of this act are not effective until the extended effective dates.

(2) Section 23 of this act, specifying the conditions under which a general partner ceases to be a member of a limited partnership, is not effective until the extended effective date, and the applicable provisions of existing law continue to govern until the extended effective date.

(3) Sections 27, 28, and 38 of this act apply only to contributions and distributions made after the effective date of this act.

(4) Section 42 of this act applies only to assignment made after the effective date of this act.

(5) Article 9 of this act, dealing with registration of foreign limited partnerships, is not effective until the extended effective date. [1981 c 51 § 65.]

Reviser's note: (1) "sections 2, 3, 4, 5, 8, 9, 10, 11, and 13 of this act" are codified as RCW 25.10.020, 25.10.030, 25.10.040, 25.10.050, 25.10.080, 25.10.090, 25.10.100, 25.10.110, and 25.10.130.

(2) "Section 23 of this act" is codified as RCW 25.10.230.

(3) "Sections 27, 28, and 38 of this act" are codified as RCW 25.10.270, 25.10.280, and 25.10.380.

(4) "Section 42 of this act" is codified as RCW 25.10.420.

(5) "Article 9 of this act" is codified as RCW 25.10.480, 25.10.490, 25.10.500, 25.10.510, 25.10.520, 25.10.530, 25.10.540, and 25.10.550.

25.10.660 Rules for class not provided for in this chapter. In any case not provided for in this chapter, the provisions of the uniform partnership act govern. [1981 c 51 § 66.]

Uniform partnership act: Chapter 25.04 RCW.

25.10.670 Application to existing partnerships. (1) Except as provided in subsections (1) and (2) of this section, the provisions of this title shall apply to all existing limited partnerships formed after June 6, 1945, under any prior statute of this state providing for the formation of limited partnerships, except to the extent provisions of this title are inconsistent with provisions of the certificate or partnership agreement of such existing limited partnerships, which partnership provisions were applicable to such limited partnerships as of January 1, 1982, and which partnership provisions would have been valid under any such applicable prior statutes. Insofar as the provisions of this title are substantially the same as statutory provisions repealed by this title and relate to the same subject matter, such provisions shall be construed as restatements and continuations, and not as new enactments. Neither the enactment of this title nor the amendment of this title nor the repeal of the prior title shall take away or impair any liability or cause of action existing or accrued by or against any limited partnership or its partners.

(2) On or before September 30, 1982, each county clerk shall transmit all files, records, indexes, and other documents maintained in the county clerk's office, pursuant to prior statutes requiring limited partnership filings at the office of county clerk, to the office of the secretary of state.

(3) Upon receipt of the limited partnership records from the county clerks, the secretary of state shall thereafter treat such county filings as a filing with the secretary of state. The secretary of state shall establish by September 30, 1982, a filing and record system for integration of the records received from the county clerks and to accomplish the purposes of this chapter relating to centralized filing. [1981 c 51 § 67.]

25.10.680 Effect of invalidity of part of this title. If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section, or part of this title, such judgment or decree shall not affect, impair, invalidate, or nullify the remainder of this title, but the effect thereof shall be confined to the clause, sentence,

paragraph, section, or part of this title so adjudged to be invalid or unconstitutional. [1981 c 51 § 68.]

25.10.690 Section captions. Section captions as used in this chapter do not constitute any part of the law. [1981 c 51 § 71.]

ARTICLE 13 MERGERS

25.10.800 Merger—Plan—Effective date. (1) One or more domestic limited partnerships may merge with one or more domestic limited partnerships or domestic corporations pursuant to a plan of merger approved or adopted as provided in RCW 25.10.810.

(2) The plan of merger must set forth:

(a) The name of each limited partnership and corporation planning to merge and the name of the surviving limited partnership or corporation into which the other limited partnership or corporation plans to merge;

(b) The terms and conditions of the merger; and

(c) The manner and basis of converting the partnership interests of each limited partnership and the shares of each corporation party to the merger into the partnership interests, shares, obligations, or other securities of the surviving or any other limited partnership or corporation or into cash or other property in whole or part.

(3) The plan of merger may set forth:

(a) Amendments to the certificate of limited partnership of the surviving limited partnership;

(b) Amendments to the articles of incorporation of the surviving corporation; and

(c) Other provisions relating to the merger.

(4) If the plan of merger does not specify a delayed effective date, it shall become effective upon the filing of articles of merger. If the plan of merger specifies a delayed effective time and date, the plan of merger becomes effective at the time and date specified. If the plan of merger specifies a delayed effective date but no time is specified, the plan of merger is effective at the close of business on that date. A delayed effective date for a plan of merger may not be later than the ninetieth day after the date it is filed. [1991 c 269 § 11.]

25.10.810 Merger—Plan—Approval. (1) Unless otherwise provided in its partnership agreement, approval of a plan of merger by a domestic limited partnership party to a merger shall occur when the plan is approved (a) by all general partners of such limited partnership, and (b) by the limited partners or, if there is more than one class of limited partners, then by each class or group of limited partners of such limited partnership, in either case, by limited partners who own more than fifty percent of the then current percentage or other interest in the profits of such limited partnership owned by all limited partners or by the limited partners in each class or group, as appropriate.

(2) If a domestic corporation is a party to the merger, the plan of merger shall be adopted and approved as provided in chapter 23B.11 RCW. [1991 c 269 § 13.]

25.10.820 Articles of merger—Filing. After a plan of merger is approved or adopted, the surviving limited partnership or corporation shall deliver to the secretary of state for filing articles of merger setting forth:

- (1) The plan of merger;
- (2) If the approval of any partners or shareholders of one or more limited partnerships or corporations party to the merger was not required, a statement to that effect; or
- (3) If the approval of any partners or shareholders of one or more of the limited partnerships or corporations party to the merger was required, a statement that the merger was duly approved by such partners and shareholders pursuant to RCW 25.10.810 or chapter 23B.11 RCW. [1991 c 269 § 14.]

25.10.830 Effect of merger. (1) When a merger takes effect:

- (a) Every other limited partnership or corporation that is party to the merger merges into the surviving limited partnership or corporation and the separate existence of every limited partnership and corporation except the surviving limited partnership or corporation ceases;
- (b) The title to all real estate and other property owned by each limited partnership and corporation party to the merger is vested in the surviving limited partnership or corporation without reversion or impairment;
- (c) The surviving limited partnership or corporation has all liabilities of each limited partnership and corporation that is party to the merger;
- (d) A proceeding pending against any limited partnership or corporation that is party to the merger may be continued as if the merger did not occur or the surviving limited partnership or corporation may be substituted in the proceeding for the limited partnership or corporation whose existence ceased;
- (e) The partnership agreement of the surviving limited partnership is amended to the extent provided in the plan of merger;
- (f) The articles of incorporation of the surviving corporation are amended to the extent provided in the plan of merger; and
- (g) The former holders of the partnership interests of every domestic limited partnership that is party to the merger and the former holders of the shares of every domestic corporation that is party to the merger are entitled only to the rights provided in the articles of merger or to their rights under RCW 25.10.900 through 25.10.955 or to the rights under chapter 23B.13 RCW.

(2) Unless otherwise agreed, a merger of a domestic limited partnership, including a domestic limited partnership which is not the surviving entity in the merger, shall not require the domestic limited partnership to wind up its affairs under RCW 25.10.460 or pay its liabilities and distribute its assets under RCW 25.10.470. [1991 c 269 § 15.]

25.10.840 Merger—Foreign and domestic. (1) One or more foreign limited partnerships and one or more foreign corporations may merge with one or more domestic limited partnerships or domestic corporations if:

- (a) The merger is permitted by the law of the jurisdiction under which each foreign limited partnership was

organized, and each foreign corporation was incorporated, and each foreign limited partnership and foreign corporation complies with that law in effecting the merger;

- (b) The surviving entity complies with RCW 25.10.820;
- (c) Each domestic limited partnership complies with RCW 25.10.810; and
- (d) Each domestic corporation complies with RCW 23B.11.080.

(2) Upon the merger taking effect, a surviving foreign limited partnership or corporation is deemed to appoint the secretary of state as its agent for service of process in a proceeding to enforce any obligation or the rights of dissenting partners or shareholders of each domestic limited partnership or domestic corporation party to the merger. [1991 c 269 § 16.]

ARTICLE 14 DISSENTERS' RIGHTS

25.10.900 Definitions. As used in this article:

(1) "Limited partnership" means the domestic limited partnership in which the dissenter holds or held a partnership interest, or the surviving limited partnership or corporation by merger, whether foreign or domestic, of that limited partnership.

(2) "Dissenter" means a partner who is entitled to dissent from a plan of merger and who exercises that right when and in the manner required by this article.

(3) "Fair value," with respect to a dissenter's partnership interest, means the value of the partnership interest immediately before the effectuation of the merger to which the dissenter objects, excluding any appreciation or depreciation in anticipation of the merger unless exclusion would be inequitable.

(4) "Interest" means interest from the effective date of the merger until the date of payment, at the average rate currently paid by the limited partnership on its principal bank loans or, if none, at a rate that is fair and equitable under all the circumstances. [1991 c 269 § 17.]

25.10.905 Partner—Dissent—Payment of fair value.

(1) Except as provided in RCW 25.10.915 or 25.10.925(2), a partner of a domestic limited partnership is entitled to dissent from, and obtain payment of, the fair value of the partner's partnership interest in the event of consummation of a plan of merger to which the limited partnership is a party as permitted by RCW 25.10.800 or 25.10.840.

(2) A partner entitled to dissent and obtain payment for the partner's partnership interest under this article may not challenge the merger creating the partner's entitlement unless the merger fails to comply with the procedural requirements imposed by this title, Title 23B RCW, the partnership agreement, or is fraudulent with respect to the partner or the limited partnership.

(3) The right of a dissenting partner to obtain payment of the fair value of the partner's partnership interest shall terminate upon the occurrence of any one of the following events:

- (a) The proposed merger is abandoned or rescinded;
- (b) A court having jurisdiction permanently enjoins or sets aside the merger; or

(c) The partner's demand for payment is withdrawn with the written consent of the limited partnership. [1991 c 269 § 18.]

25.10.910 Dissenters' rights—Notice—Timing. (1) Not less than ten days prior to the approval of a plan of merger, the limited partnership must send a written notice to all partners who are entitled to vote on or approve the plan of merger that they may be entitled to assert dissenters' rights under this article. Such notice shall be accompanied by a copy of this article.

(2) The limited partnership shall notify in writing all partners not entitled to vote on or approve the plan of merger that the plan of merger was approved, and send them the dissenters' notice as required by RCW 25.10.920. [1991 c 269 § 19.]

25.10.915 Partner—Dissent—Voting restriction. A partner who is entitled to vote on or approve the plan of merger and who wishes to assert dissenters' rights must not vote in favor of or approve the plan of merger. A partner who does not satisfy the requirements of this section is not entitled to payment for the partner's interest under this article. [1991 c 269 § 20.]

25.10.920 Partners—Dissenters' notice—Requirements. (1) If the plan of merger is approved, the limited partnership shall deliver a written dissenters' notice to all partners who satisfied the requirements of RCW 25.10.915.

(2) The dissenters' notice required by RCW 25.10.910(2) or by subsection (1) of this section must be sent within ten days after the approval of the plan of merger, and must:

- (a) State where the payment demand must be sent;
- (b) Inform holders of the partnership interest as to the extent transfer of the partnership interest will be restricted as permitted by RCW 25.10.930 after the payment demand is received;
- (c) Supply a form for demanding payment;
- (d) Set a date by which the limited partnership must receive the payment demand, which date may not be fewer than thirty nor more than sixty days after the date the notice under this section is delivered; and
- (e) Be accompanied by a copy of this article. [1991 c 269 § 21.]

25.10.925 Partner—Payment demand—Entitlement. (1) A partner who demands payment retains all other rights of a partner until the proposed merger becomes effective. (2) A partner sent a dissenters' notice who does not demand payment by the date set in the dissenters' notice is not entitled to payment for the partner's partnership interest under this article. [1991 c 269 § 22.]

25.10.930 Partnership interests—Transfer restrictions. The limited partnership may restrict the transfer of partnership interests from the date the demand for their payment is received until the proposed merger becomes effective or the restriction is released under this article. [1991 c 269 § 23.]

25.10.935 Payment of fair value—Requirements for compliance. (1) Within thirty days of the later of the date the proposed merger becomes effective, or the payment demand is received, the limited partnership shall pay each dissenter who complied with RCW 25.10.925 the amount the limited partnership estimates to be the fair value of the partnership interest, plus accrued interest.

- (2) The payment must be accompanied by:
 - (a) Copies of the financial statements for the most recent fiscal year maintained as required by RCW 25.10.050;
 - (b) An explanation of how the limited partnership estimated the fair value of the partnership interest;
 - (c) An explanation of how the accrued interest was calculated;
 - (d) A statement of the dissenter's right to demand payment; and
 - (e) A copy of this article. [1991 c 269 § 24.]

25.10.940 Merger—Not effective within sixty days—Transfer restrictions. (1) If the proposed merger does not become effective within sixty days after the date set for demanding payment, the limited partnership shall release any transfer restrictions imposed as permitted by RCW 25.10.930.

(2) If, after releasing transfer restrictions, the proposed merger becomes effective, the limited partnership must send a new dissenters' notice as provided in RCW 25.10.910(2) and 25.10.920 and repeat the payment demand procedure. [1991 c 269 § 25.]

25.10.945 Dissenter's estimate of fair value—Notice. (1) A dissenter may notify the limited partnership in writing of the dissenter's own estimate of the fair value of the dissenter's partnership interest and amount of interest due, and demand payment of the dissenter's estimate, less any payment under RCW 25.10.935, if:

- (a) The dissenter believes that the amount paid is less than the fair value of the dissenter's partnership interest or that the interest due is incorrectly calculated;
- (b) The limited partnership fails to make payment within sixty days after the date set for demanding payment; or
- (c) The limited partnership, having failed to effectuate the proposed merger, does not release the transfer restrictions imposed on partnership interests as permitted by RCW 25.10.930 within sixty days after the date set for demanding payment.

(2) A dissenter waives the right to demand payment under this section unless the dissenter notifies the limited partnership of the dissenter's demand in writing under subsection (1) of this section within thirty days after the limited partnership made payment for the dissenter's partnership interest. [1991 c 269 § 26.]

25.10.950 Unsettled demand for payment—Proceeding—Parties—Appraisers. (1) If a demand for payment under RCW 25.10.945 remains unsettled, the limited partnership shall commence a proceeding within sixty days after receiving the payment demand and petition the court to determine the fair value of the partnership interest and accrued interest. If the limited partnership does not commence the proceeding within the sixty-day period, it

shall pay each dissenter whose demand remains unsettled the amount demanded.

(2) The limited partnership shall commence the proceeding in the superior court. If the limited partnership is a domestic limited partnership, it shall commence the proceeding in the county where its office is maintained as required by RCW 25.10.040(1). If the limited partnership is a domestic corporation, it shall commence the proceeding in the county where its principal office, as defined in *RCW 23B.01.400(17), is located, or if none is in this state, its registered office under RCW 23B.05.010. If the limited partnership is a foreign limited partnership or corporation without a registered office in this state, it shall commence the proceeding in the county in this state where the office of the domestic limited partnership maintained pursuant to RCW 25.10.040(1) merged with the foreign limited partnership or foreign corporation was located.

(3) The limited partnership shall make all dissenters (whether or not residents of this state) whose demands remain unsettled parties to the proceeding as in an action against their partnership interests and all parties must be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law.

(4) The limited partnership may join as a party to the proceeding any partner who claims to be a dissenter but who has not, in the opinion of the limited partnership, complied with the provisions of this chapter. If the court determines that such partner has not complied with the provisions of this article, the partner shall be dismissed as a party.

(5) The jurisdiction of the court in which the proceeding is commenced is plenary and exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend decisions on the question of fair value. The appraisers have the powers described in the order appointing them or in any amendment to it. The dissenters are entitled to the same discovery rights as parties in other civil proceedings.

(6) Each dissenter made a party to the proceeding is entitled to judgment for the amount, if any, by which the court finds the fair value of the dissenter's partnership interest, plus interest, exceeds the amount paid by the limited partnership. [1991 c 269 § 27.]

*Reviser's note: RCW 23B.01.400(17) was renumbered as RCW 23B.01.400(19) by 1991 c 269 § 35.

25.10.955 Unsettled demand for payment—Costs—Fees and expenses of counsel. (1) The court in a proceeding commenced under RCW 25.10.950 shall determine all costs of the proceeding, including the reasonable compensation and expenses of appraisers appointed by the court. The court shall assess the costs against the limited partnership, except that the court may assess the costs against all or some of the dissenters, in amounts the court finds equitable, to the extent the court finds the dissenters acted arbitrarily, vexatiously, or not in good faith in demanding payment.

(2) The court may also assess the fees and expenses of counsel and experts for the respective parties, in amounts the court finds equitable:

(a) Against the limited partnership and in favor of any or all dissenters if the court finds the limited partnership did

not substantially comply with the requirements of this article; or

(b) Against either the limited partnership or a dissenter, in favor of any other party, if the court finds that the party against whom the fees and expenses are assessed acted arbitrarily, vexatiously, or not in good faith with respect to the rights provided by this article.

(3) If the court finds that the services of counsel for any dissenter were of substantial benefit to other dissenters similarly situated, and that the fees for those services should not be assessed against the limited partnership, the court may award to these counsel reasonable fees to be paid out of the amounts awarded the dissenters who were benefited. [1991 c 269 § 28.]

Chapter 25.12

LIMITED PARTNERSHIPS EXISTING PRIOR TO JUNE 6, 1945

Sections

25.12.005	Application of chapter.
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25.12.020	Of whom composed—Liability of members.
25.12.030	Certificate to be made, acknowledged and filed.
25.12.040	Certificate of partnership—Publication.
25.12.050	Renewal of limited partnership.
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25.12.070	Withdrawal of stock and profits—Effect.
25.12.080	Suits by and against limited partnership—Parties.
25.12.090	Dissolution, how accomplished.
25.12.100	Liabilities and rights of members of firm.

25.12.005 Application of chapter. The provisions of this chapter shall apply only to those limited partnerships which were in existence on or prior to June 6, 1945 and which have not become a limited partnership under *chapter 25.08 RCW. [1955 c 15 § 25.12.005.]

*Reviser's note: Chapter 25.08 RCW was repealed in its entirety by 1981 c 51 § 72; later enactment, see chapter 25.10 RCW.

25.12.010 Limited partnership may be formed. Limited partnerships for the transaction of mercantile, mechanical, or manufacturing business may be formed within this state, by two or more persons, upon the terms and subject to the conditions contained in this chapter. [1955 c 15 § 25.12.010. Prior: 1869 p 380 § 1; RRS § 9966.]

25.12.020 Of whom composed—Liability of members. A limited partnership may consist of two or more persons, who are known and called general partners, and are jointly liable as general partners now are by law, and of two or more persons who shall contribute to the common stock a specific sum in actual money as capital, and are known and called special partners, and are not personally liable for any of the debts of the partnership, except as in this chapter specially provided. [1955 c 15 § 25.12.020. Prior: 1927 c 106 § 1; 1869 p 380 § 2; RRS § 9967.]

25.12.030 Certificate to be made, acknowledged and filed. The persons forming such partnership shall make and

severally subscribe a certificate, in duplicate, and file one of such certificates with the county auditor of the county in which the principal place of business of the partnership is to be. Before being filed, the execution of such certificate shall be acknowledged by each partner subscribing it before some officer authorized to take acknowledgments of deeds; and such certificate shall contain the name assumed by the partnership and under which its business is to be conducted, the names and respective places of residence of all the general and special partners, the amount of capital which each special partner has contributed to the common stock, the general nature of the business to be transacted, and the time when the partnership is to commence, and when it is to terminate. [1955 c 15 § 25.12.030. Prior: 1869 p 380 § 3; RRS § 9968.]

25.12.040 Certificate of partnership—Publication. The partnership cannot commence before the filing of the certificate of partnership, and if a false statement is made in the certificate, all the persons subscribing thereto are liable as general partners for all the debts of the partnership. The partners shall, for four consecutive weeks immediately after the filing of the certificate of partnership, publish a copy of it in some newspaper of general circulation in the county where the principal place of business of the partnership is, and until the publication is made and completed, the partnership is to be deemed general. [1985 c 469 § 12; 1955 c 15 § 25.12.040. Prior: 1869 p 380 § 4; RRS § 9969.]

25.12.050 Renewal of limited partnership. A limited partnership may be continued or renewed by making, acknowledging, filing, and publishing a certificate thereof, in the manner provided in this chapter for the formation of such partnership originally, and every such partnership, not renewed or continued as herein provided, from and after the expiration thereof according to the original certificate, shall be a general partnership. [1955 c 15 § 25.12.050. Prior: 1869 p 381 § 5; RRS § 9970.]

25.12.060 Name of firm—When special partner liable as general partner. The business of the partnership may be conducted under a name in which the names of the general partners only shall be inserted, without the addition of the word "company" or any other general term. If the name of any special partner is used in such firm with his consent or privity, he shall be deemed and treated as a general partner, or if he personally makes any contract respecting the concerns of the partnership with any person except the general partners, he shall be deemed and treated as a general partner in relation to such contract, unless he makes it appear that in making such contract he acted and was recognized as a special partner only. [1955 c 15 § 25.12.060. Prior: 1869 p 381 § 6; RRS § 9971.]

25.12.070 Withdrawal of stock and profits—Effect. During the continuance of any partnership formed under this chapter no part of the capital stock thereof shall be withdrawn, nor any division of interests or profits be made, so as to reduce such capital stock below the sum stated in the certificate of partnership before mentioned; and if at any time during the continuance or at the termination of such

partnership, the property or assets thereof are not sufficient to satisfy the partnership debts then the special partners shall be severally liable for all sums or amounts by them in any way received or withdrawn from such capital stock, with interest thereon from the time they were so received or withdrawn respectively. [1955 c 15 § 25.12.070. Prior: 1869 p 381 § 7; RRS § 9972.]

25.12.080 Suits by and against limited partnership—Parties. All actions, suits or proceedings respecting the business of such partnership shall be prosecuted by and against the general partners only, except in those cases where special partners or partnerships are to be deemed general partners or partnerships, in which case all the partners deemed general partners may join therein; and excepting also those cases where special partners are severally liable on account of sums or amounts received or withdrawn from the capital stock as provided in RCW 25.12.070. [1955 c 15 § 25.12.080. Prior: 1869 p 381 § 8; RRS § 9973.]

25.12.090 Dissolution, how accomplished. No dissolution of a limited partnership shall take place except by operation of law, before the time specified in the certificate of partnership, unless a notice of such dissolution, subscribed by the general and special partners is filed with the original certificate of partnership or the certificate, if any, renewing or continuing such partnership nor unless a copy of such notice be published for the time and in the manner prescribed for the publication of the certificate of partnership. [1955 c 15 § 25.12.090. Prior: 1869 p 382 § 9; RRS § 9974.]

25.12.100 Liabilities and rights of members of firm. In all cases not otherwise provided for in this chapter, all the members of limited partnerships shall be subject to all the liabilities and entitled to all the rights of general partners. [1955 c 15 § 25.12.100. Prior: 1869 p 382 § 10; RRS § 9975.]

Title 26

DOMESTIC RELATIONS

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- 26.09** Dissolution of marriage—Legal separation—Declarations concerning validity of marriage.
- 26.10** Nonparental actions for child custody.
- 26.12** Family court.
- 26.16** Husband and wife—Rights and liabilities—Community property.
- 26.18** Child support enforcement.
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- Probate and trust law: Title 11 RCW.*
- Sex crimes: Chapter 9A.44 RCW.*
- Sexually transmitted disease treatment and care for minors, consent, liability: RCW 70.24.110.*

Shoplifting by minors, liability of parents, guardians: RCW 4.24.230.

Solicitation of minor for immoral purposes: RCW 71.06.010.

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proceedings and actions: Title 7 RCW.

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Chapter 26.04 MARRIAGE

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- 26.04.020 Prohibited marriages—Spouse living—Consanguinity.
- 26.04.050 Who may solemnize.
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26.04.010 Who may contract—Certain marriages void, exception. Marriage is a civil contract which may be

entered into by persons of the age of eighteen years, who are otherwise capable: PROVIDED, That every marriage entered into in which either party shall not have attained the age of seventeen years shall be void except where this section has been waived by a superior court judge of the county in which one of the parties resides on a showing of necessity. [1973 1st ex.s. c 154 § 26; 1970 ex.s. c 17 § 2; 1963 c 230 § 1; Code 1881 § 2380; 1866 p 81 § 1; 1854 p 404 §§ 1, 5; RRS § 8437.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

26.04.020 Prohibited marriages—Spouse living—Consanguinity. Marriages in the following cases are prohibited:

- (1) When either party thereto has a wife or husband living at the time of such marriage.
- (2) When the parties thereto are nearer of kin to each other than second cousins, whether of the whole or half blood computing by the rules of the civil law.
- (3) It shall be unlawful for any man to marry his father's sister, mother's sister, daughter, sister, son's daughter, daughter's daughter, brother's daughter or sister's daughter; it shall be unlawful for any woman to marry her father's brother, mother's brother, son, brother, son's son, daughter's son, brother's son or sister's son. [1927 c 189 § 1; Code 1881 § 949; 1866 p 81 § 2; 1854 p 96 § 115; RRS § 8438.]

Bigamy: RCW 9A.64.010.
Incest—Penalties: RCW 9A.64.020.

26.04.050 Who may solemnize. The following named officers and persons, active or retired, are hereby authorized to solemnize marriages, to wit: Justices of the supreme court, judges of the court of appeals, judges of the superior courts, superior court commissioners, any regularly licensed or ordained minister or any priest of any church or religious denomination, and judges of courts of limited jurisdiction as defined in RCW 3.02.010. [1987 c 291 § 1; 1984 c 258 § 95; 1983 c 186 § 1; 1971 c 81 § 69; 1913 c 35 § 1; 1890 p 98 § 1; 1883 p 43 § 1; Code 1881 § 2382; 1866 p 82 § 4; 1854 p 404 § 4; RRS § 8441.]

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

26.04.060 Marriage before unauthorized cleric—Effect. A marriage solemnized before any person professing to be a minister or a priest of any religious denomination in this state or professing to be an authorized officer thereof, is not void, nor shall the validity thereof be in any way affected on account of any want of power or authority in such person, if such marriage be consummated with a belief on the part of the persons so married, or either of them, that they have been lawfully joined in marriage. [1975-'76 2nd ex.s. c 42 § 25; Code 1881 § 2388; 1866 p 83 §§ 10 and 11; 1854 p 405 § 6; RRS § 8442. Formerly RCW 26.04.060 and 26.24.200.]

Severability—Savings—Construction—1975-'76 2nd ex.s. c 42: See RCW 26.26.900 through 26.26.905.

26.04.070 Form of solemnization. In the solemnization of marriage no particular form is required, except that the parties thereto shall assent or declare in the presence of the minister, priest, or judicial officer solemnizing the same, and in the presence of at least two attending witnesses, that they take each other to be husband and wife. [Code 1881 § 2383; 1866 p 82 § 5; RRS § 8443.]

26.04.080 Marriage certificate—Contents. The person solemnizing a marriage shall give to each of the parties thereto, if required, a certificate thereof, specifying therein the names and residence of the parties, and of at least two witnesses present, the time and place of such marriage, and the date of the license thereof, and by whom issued. [Code 1881 § 2384; 1866 p 82 § 6; RRS § 8444.]

26.04.090 Certificate for files of county auditor and state registrar of vital statistics—Forms. A person solemnizing a marriage shall, within thirty days thereafter, make and deliver to the county auditor of the county wherein the license was issued a certificate for the files of the county auditor, and a certificate for the files of the state registrar of vital statistics. The certificate for the files of the county auditor shall be substantially as follows:

STATE OF WASHINGTON
COUNTY OF

This is to certify that the undersigned, a, by authority of a license bearing date the day of A.D., 19. . . , and issued by the County auditor of the county of, did, on the day of A.D., 19. . . , at in this county and state, join in lawful wedlock A.B. of the county of, state of and C.D. of the county of, state of, with their mutual assent, in the presence of F H and E G, witnesses.

In Testimony Whereof, witness the signatures of the parties to said ceremony, the witnesses and myself, this day of, A.D., 19. . .

The certificate for the files of the state registrar of vital statistics shall be in accordance with *RCW 70.58.200. The certificate forms for the files of the county auditor and for the files of the state registrar of vital statistics shall be provided by the state registrar of vital statistics. [1967 c 26 § 4; 1947 c 59 § 1; 1927 c 172 § 1; Code 1881 § 2385; 1866 p 82 § 7; 1854 p 405 § 7; RRS § 8445.]

*Reviser's note: RCW 70.58.200 was repealed by 1991 c 96 § 6.
Effective date—1967 c 26: See note following RCW 43.70.150.

26.04.100 Filing and recording—County auditor. The county auditor shall file said certificates and record them or bind them into numbered volumes, and note on the original index to the license issued the volume and page wherein such certificate is recorded or bound. He shall enter the date of filing and his name on the certificates for the files of the state registrar of vital statistics, and transmit, by the tenth day of each month, all such certificates filed with him during the preceding month. [1967 c 26 § 5; 1947 c 59 § 2; 1886 p 66 § 1; Code 1881 § 2386; 1867 p 105 § 2; 1866 p 82 § 8; Rem. Supp. 1947 § 8446.]

Effective date—1967 c 26: See note following RCW 43.70.150.

26.04.105 Preservation of copies of applications and licenses—County auditor. The county auditor may preserve copies of marriage license applications submitted and marriage licenses issued under this chapter in the same manner as authorized for the recording of instruments under RCW 65.04.040. [1985 c 44 § 1.]

26.04.110 Penalty for failure to deliver certificates. Any person solemnizing a marriage, who shall wilfully refuse or neglect to make and deliver to the county auditor for record, the certificates mentioned in RCW 26.04.090, within the time in such section specified, shall be deemed guilty of a misdemeanor, and upon conviction shall pay for such refusal, or neglect, a fine of not less than twenty-five nor more than three hundred dollars. [1967 c 26 § 6; 1947 c 59 § 3; 1886 p 66 § 2; Code 1881 § 2387; 1866 p 83 § 9; Rem. Supp. 1947 § 8447.]

Effective date—1967 c 26: See note following RCW 43.70.150.

26.04.120 Marriage according to religious ritual. All marriages to which there are no legal impediments, solemnized before or in any religious organization or congregation, according to the established ritual or form commonly practiced therein, are valid, and a certificate containing the particulars specified in RCW 26.04.080 and 26.04.090, shall be made and filed for record by the person or persons presiding or officiating in or recording the proceedings of such religious organization or congregation, in the manner and with like effect as in ordinary cases. [Code 1881 § 2389; RRS § 8448.]

26.04.130 Voidable marriages. When either party to a marriage shall be incapable of consenting thereto, for want of legal age or a sufficient understanding, or when the consent of either party shall be obtained by force or fraud, such marriage is voidable, but only at the suit of the party laboring under the disability, or upon whom the force or fraud is imposed. [Code 1881 § 2381; 1866 p 81 § 3; RRS § 8449.]

26.04.140 Marriage license. Before any persons can be joined in marriage, they shall procure a license from a county auditor, as provided in RCW 26.04.150 through 26.04.190. [1985 c 82 § 1; 1939 c 204 § 2; RRS § 8450-1. Prior: Code 1881 § 2390; 1866 p 83 § 12.]

26.04.150 Application for license—May be secured by mail—Execution and acknowledgment. Any person may secure by mail from the county auditor of the county in the state of Washington where he intends to be married, an application, and execute and acknowledge said application before a notary public. [1963 c 230 § 2; 1939 c 204 § 3; RRS § 8450-2.]

26.04.160 Application for license—Contents—Oath. Application for such marriage license must be made and filed with the appropriate county auditor upon blanks to be provided by the county auditor for that purpose, which application shall be under the oath of each of the applicants, and each application shall state the name, address at the time

of execution of application, age, birthplace, whether single, widowed or divorced, and whether under control of a guardian, residence during the past six months: PROVIDED, That each county may require such other and further information on said application as it shall deem necessary. [1985 c 82 § 2; 1967 c 26 § 7; 1939 c 204 § 4; RRS § 8450-3.]

Effective date—1967 c 26: See note following RCW 43.70.150.

26.04.165 Additional marriage certificate form. In addition to the application provided for in RCW 26.04.160, the county auditor for the county wherein the license is issued shall submit to each applicant at the time for application for a license the Washington state department of health marriage certificate form prescribed by *RCW 70.58.200 to be completed by the applicants and returned to the county auditor for the files of the state registrar of vital statistics. After the execution of the application for, and the issuance of a license, no county shall require the persons authorized to solemnize marriages to obtain any further information from the persons to be married except the names and county of residence of the persons to be married. [1989 1st ex.s. c 9 § 203; 1979 c 141 § 34; 1969 ex.s. c 279 § 1.]

***Reviser's note:** RCW 70.58.200 was repealed by 1991 c 96 § 6.

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

26.04.170 Inspection of applications. Any such application shall be open to public inspection as a part of the records of the office of such county auditor. [1985 c 82 § 3; 1939 c 204 § 5; RRS § 8450-4.]

26.04.175 When disclosure of marriage applications and records prohibited. If a program participant under chapter 40.24 RCW notifies the appropriate county auditor as required under rules adopted by the secretary of state, the county auditor shall not make available for inspection or copying the name and address of a program participant contained in marriage applications and records filed under chapter 26.04 RCW, except under the following circumstances:

- (1) If requested by a law enforcement agency, to the law enforcement agency; and
- (2) If directed by a court order, to a person identified in the order. [1991 c 23 § 12.]

Effective dates—1991 c 23: See RCW 40.24.900.

26.04.180 License—Time limitations as to issuance and use—Notification. The county auditor may issue the marriage license at the time of application, but shall issue such license no later than the third full day following the date of the application. A marriage license issued pursuant to the provisions of this chapter may not be used until three days after the date of application and shall become void if the marriage is not solemnized within sixty days of the date of the issuance of the license, and the county auditor shall notify the applicant in writing of this requirement at the time of issuance of the license. [1985 c 82 § 4; 1979 ex.s. c 128 § 1; 1963 c 230 § 3; 1953 c 107 § 1. Prior: 1943 c 250 § 1; 1939 c 204 § 6; Rem. Supp. 1943 § 8450-5.]

26.04.190 Refusal of license—Appeal. Any county auditor is hereby authorized to refuse to issue a license to marry if, in his discretion, the applications executed by the parties or information coming to his knowledge as a result of the execution of said applications, justifies said refusal: PROVIDED, HOWEVER, The denied parties may appeal to the superior court of said county for an order to show cause, directed to said county auditor to appear before said court to show why said court should not grant an order to issue a license to said denied parties and, after due hearing, or if the auditor fails to appear, said court may in its discretion, issue an order to said auditor directing him to issue said license; any hearings held by a superior court under RCW 26.04.140 through 26.04.200 may, in the discretion of said court, be held in chambers. [1939 c 204 § 7; RRS § 8450-6.]

26.04.200 Penalty for violations—1939 c 204. Any person intentionally violating any provision of RCW 26.04.140 through 26.04.190 shall be guilty of a misdemeanor. [1939 c 204 § 8; RRS § 8450-7.]

Punishment of misdemeanor when not fixed by statute: RCW 9.92.030.

26.04.210 Affidavits required for issuance of license. The county auditor, before a marriage license is issued, upon the payment of a license fee as fixed in RCW 36.18.010 shall require each applicant therefor to make and file in his office upon blanks to be provided by the county for that purpose, an affidavit showing that they are not afflicted with any contagious *venereal disease and that the applicants are the age of eighteen years or over: PROVIDED, FURTHER, That if the consent in writing is obtained of the father, mother, or legal guardian of the person for whom the license is required, the license may be granted in cases where the female has attained the age of seventeen years or the male has attained the age of seventeen years. Such affidavit may be subscribed and sworn to before any person authorized to administer oaths. Anyone knowingly swearing falsely to any of the statements contained in the affidavits mentioned in this section shall be deemed guilty of perjury and punished as provided by the laws of the state of Washington. [1985 c 82 § 5; 1979 ex.s. c 128 § 2; 1973 1st ex.s. c 154 § 29; 1970 ex.s. c 17 § 5; 1963 c 230 § 4; 1959 c 149 § 3; 1909 ex.s. c 16 § 3; 1909 c 174 § 3; Code 1881 §§ 2391, 2392; 1867 p 104 § 1; 1866 p 83 §§ 13, 14; RRS § 8451.]

***Reviser's note:** The term "venereal diseases" was changed to "sexually transmitted diseases" by 1988 c 206.

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

Penalty for violation of marriage requirements: RCW 26.04.230.

26.04.220 Retention of license by person solemnizing—Auditor's record. The person solemnizing the marriage is authorized to retain in his possession the license, but the county auditor who issues the same, before delivering it, shall enter in his marriage record a memorandum of the names of the parties, the consent of the parents or guardian, if any, and the name of the affiant and the substance of the affidavit upon which said license issued, and the date of such license. [Code 1881 § 2393; 1866 p 84 § 15; RRS § 8453.]

26.04.230 Penalty for violation of marriage requirements. Any person knowingly violating any of the provisions of RCW 26.04.210 shall, upon conviction thereof, be punished by a fine of not more than one thousand dollars, or by imprisonment in a state correctional facility for a period of not more than three years, or by both such fine and imprisonment. [1992 c 7 § 30; 1909 ex.s. c 16 § 4; 1909 c 174 § 4; Code 1881 § 2394; 1866 p 84 § 16; RRS § 8452.]

26.04.240 Penalty for unlawful solemnization—Code 1881. Any person who shall undertake to join others in marriage knowing that he is not lawfully authorized so to do, or any person authorized to solemnize marriage, who shall join persons in marriage contrary to the provisions of *this chapter, shall, upon conviction thereof, be punished by a fine of not more than five hundred, nor less than one hundred dollars. [Code 1881 § 2395; 1866 p 84 § 17; RRS § 8454. FORMER PART OF SECTION: 1909 c 249 § 419; RRS § 2671 now codified as RCW 26.04.250.]

***Reviser's note:** "This chapter" (chapter 182, Code 1881) is codified as RCW 26.04.010, 26.04.050 through 26.04.140 and 26.04.220 through 26.04.240. Code 1881 §§ 2391 and 2392, being part of chapter 182, Code 1881, appear to be superseded by 1909 ex.s. c 16 § 3 (RCW 26.04.210) which is subject to the penalties of RCW 26.04.230.

26.04.250 Penalty for unlawful solemnization—1909 c 249. Every person who shall solemnize a marriage when either party thereto is known to him to be under the age of legal consent or a marriage to which, within his knowledge, any legal impediment exists, shall be guilty of a gross misdemeanor. [1979 ex.s. c 128 § 3; 1909 c 249 § 419; RRS § 2671. Formerly RCW 26.04.240, part.]

Punishment of gross misdemeanor when not fixed by statute: RCW 9.92.020.

Chapter 26.09

DISSOLUTION OF MARRIAGE—LEGAL SEPARATION—DECLARATIONS CONCERNING VALIDITY OF MARRIAGE

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- 26.09.900 Construction—Pending divorce actions.
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- 26.09.909 Decrees entered into prior to January 1, 1988.
- 26.09.910 Short title—1987 c 460.
- 26.09.911 Section captions—1987 c 460.
- 26.09.912 Effective date—1987 c 460.
- 26.09.913 Severability—1987 c 460.
- 26.09.914 Severability—1989 c 375.

Child support enforcement: Chapter 26.18 RCW.

Child support registry: Chapter 26.23 RCW.

Domestic violence prevention: Chapter 26.50 RCW.

Living in marital relationship within state submits person to state jurisdiction as to proceedings under this chapter: RCW 4.28.185.

Missing children clearinghouse and hotline: Chapter 13.60 RCW.

Nonparental actions for child custody: Chapter 26.10 RCW.

Process—Domestic relations actions: Rules of court: CR 4.1.

26.09.002 Policy. Parents have the responsibility to make decisions and perform other parental functions necessary for the care and growth of their minor children. In any proceeding between parents under this chapter, the best interests of the child shall be the standard by which the court determines and allocates the parties' parental responsibilities. The state recognizes the fundamental importance of the parent-child relationship to the welfare of the child, and that the relationship between the child and each parent should be fostered unless inconsistent with the child's best interests. The best interests of the child are served by a parenting arrangement that best maintains a child's emotional growth, health and stability, and physical care. Further, the best interest of the child is ordinarily served when the existing pattern of interaction between a parent and child is altered only to the extent necessitated by the changed relationship of the parents or as required to protect the child from physical, mental, or emotional harm. [1987 c 460 § 2.]

26.09.004 Definitions. The definitions in this section apply throughout this chapter.

(1) "Temporary parenting plan" means a plan for parenting of the child pending final resolution of any action for dissolution of marriage, declaration of invalidity, or legal separation which is incorporated in a temporary order.

(2) "Permanent parenting plan" means a plan for parenting the child, including allocation of parenting functions, which plan is incorporated in any final decree or decree of modification in an action for dissolution of marriage, declaration of invalidity, or legal separation.

(3) "Parenting functions" means those aspects of the parent-child relationship in which the parent makes decisions and performs functions necessary for the care and growth of the child. Parenting functions include:

(a) Maintaining a loving, stable, consistent, and nurturing relationship with the child;

(b) Attending to the daily needs of the child, such as feeding, clothing, physical care and grooming, supervision, health care, and day care, and engaging in other activities which are appropriate to the developmental level of the child and that are within the social and economic circumstances of the particular family;

(c) Attending to adequate education for the child, including remedial or other education essential to the best interests of the child;

(d) Assisting the child in developing and maintaining appropriate interpersonal relationships;

(e) Exercising appropriate judgment regarding the child's welfare, consistent with the child's developmental level and the family's social and economic circumstances; and

(f) Providing for the financial support of the child. [1987 c 460 § 3.]

26.09.006 Mandatory use of approved forms. (1) Effective January 1, 1992, a party shall not file any pleading with the clerk of the court in an action commenced under this chapter unless on forms approved by the administrator for the courts.

(2) The parties shall comply with requirements for submission to the court of forms as provided in RCW 26.18.220. [1992 c 229 § 1; 1990 1st ex.s. c 2 § 26.]

Effective dates—Severability—1990 1st ex.s. c 2: See notes following RCW 26.09.100.

26.09.010 Civil practice to govern—Designation of proceedings—Decrees. (1) Except as otherwise specifically provided herein, the practice in civil action shall govern all proceedings under this chapter, except that trial by jury is dispensed with.

(2) A proceeding for dissolution of marriage, legal separation or a declaration concerning the validity of a marriage shall be entitled "In re the marriage of and" Such proceeding may be filed in the superior court of the county where the petitioner resides.

(3) In cases where there has been no prior proceeding in this state involving the marital status of the parties or support obligations for a minor child, a separate parenting and support proceeding between the parents shall be entitled "In re the parenting and support of"

(4) The initial pleading in all proceedings under this chapter shall be denominated a petition. A responsive pleading shall be denominated a response. Other pleadings, and all pleadings in other matters under this chapter shall be denominated as provided in the civil rules for superior court.

(5) In this chapter, "decree" includes "judgment".

(6) A decree of dissolution, of legal separation, or a declaration concerning the validity of a marriage shall not be awarded to one of the parties, but shall provide that it affects the status previously existing between the parties in the manner decreed. [1989 c 375 § 1; 1987 c 460 § 1; 1975 c 32 § 1; 1973 1st ex.s. c 157 § 1.]

26.09.015 Mediation—Confidentiality—Report to court. (1) In any proceeding under this chapter, the matter may be set for mediation of the contested issues before or concurrent with the setting of the matter for hearing. The purpose of the mediation proceeding shall be to reduce acrimony which may exist between the parties and to develop an agreement assuring the child's close and continuing contact with both parents after the marriage is dissolved. The mediator shall use his or her best efforts to effect a settlement of the dispute.

(2) Each superior court may make available a mediator. The mediator may be a member of the professional staff of a family court or mental health services agency, or may be any other person or agency designated by the court. In order to provide mediation services, the court is not required to institute a family court.

(3) Mediation proceedings shall be held in private and shall be confidential. The mediator shall not testify as to any aspect of the mediation proceedings. This subsection shall not apply to postdecree mediation required pursuant to a parenting plan.

(4) The mediator shall assess the needs and interests of the child or children involved in the controversy and may interview the child or children if the mediator deems such interview appropriate or necessary.

(5) Any agreement reached by the parties as a result of mediation shall be reported to the court and to counsel for

the parties by the mediator on the day set for mediation or any time thereafter designated by the court. [1991 c 367 § 2; 1989 c 375 § 2; 1986 c 95 § 4.]

Severability—1991 c 367: "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." [1991 c 367 § 54.]

Effective date—1991 c 367: "This act shall take effect September 1, 1991." [1991 c 367 § 55.]

Captions not law—1991 c 367: "Captions as used in this act do not constitute any part of the law." [1991 c 367 § 57.]

Mediation testimony competency: RCW 5.60.070 and 5.60.072.

26.09.020 Petition in proceeding for dissolution of marriage, legal separation, or for a declaration concerning validity of marriage—Contents—Parties—Certificate.

(1) A petition in a proceeding for dissolution of marriage, legal separation, or for a declaration concerning the validity of a marriage, shall allege the following:

(a) The last known residence of each party;

(b) The date and place of the marriage;

(c) If the parties are separated the date on which the separation occurred;

(d) The names, ages, and addresses of any child dependent upon either or both spouses and whether the wife is pregnant;

(e) Any arrangements as to the residential schedule of, decision making for, dispute resolution for, and support of the children and the maintenance of a spouse;

(f) A statement specifying whether there is community or separate property owned by the parties to be disposed of;

(g) The relief sought.

(2) Either or both parties to the marriage may initiate the proceeding.

(3) The petitioner shall complete and file with the petition a certificate under *RCW 70.58.200 on the form provided by the department of health. [1989 1st ex.s. c 9 § 204; 1989 c 375 § 3; 1983 1st ex.s. c 45 § 2; 1973 2nd ex.s. c 23 § 1; 1973 1st ex.s. c 157 § 2.]

Reviser's note: (1) This section was amended by 1989 c 375 § 3 and by 1989 1st ex.s. c 9 § 204, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

*(2) RCW 70.58.200 was repealed by 1991 c 96 § 6.

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

26.09.030 Petition for dissolution of marriage—Court proceedings, findings—Transfer to family court—Legal separation in lieu of dissolution.

When a party who is a resident of this state or who is a member of the armed forces and is stationed in this state, petitions for a dissolution of marriage, and alleges that the marriage is irretrievably broken and when ninety days have elapsed since the petition was filed and from the date when service of summons was made upon the respondent or the first publication of summons was made, the court shall proceed as follows:

(1) If the other party joins in the petition or does not deny that the marriage is irretrievably broken, the court shall enter a decree of dissolution.

(2) If the other party alleges that the petitioner was induced to file the petition by fraud, or coercion, the court

shall make a finding as to that allegation and, if it so finds shall dismiss the petition.

(3) If the other party denies that the marriage is irretrievably broken the court shall consider all relevant factors, including the circumstances that gave rise to the filing of the petition and the prospects for reconciliation and shall:

(a) Make a finding that the marriage is irretrievably broken and enter a decree of dissolution of the marriage; or

(b) At the request of either party or on its own motion, transfer the cause to the family court, refer them to another counseling service of their choice, and request a report back from the counseling service within sixty days, or continue the matter for not more than sixty days for hearing. If the cause is returned from the family court or at the adjourned hearing, the court shall:

(i) Find that the parties have agreed to reconciliation and dismiss the petition; or

(ii) Find that the parties have not been reconciled, and that either party continues to allege that the marriage is irretrievably broken. When such facts are found, the court shall enter a decree of dissolution of the marriage.

(4) If the petitioner requests the court to decree legal separation in lieu of dissolution, the court shall enter the decree in that form unless the other party objects and petitions for a decree of dissolution or declaration of invalidity. [1973 1st ex.s. c 157 § 3.]

26.09.040 Petition to have marriage declared invalid or judicial determination of validity—Procedure—Findings—Grounds—Legitimacy of children. (1) While both parties to an alleged marriage are living, and at least one party is resident in this state or a member of the armed service and stationed in the state, a petition to have the marriage declared invalid may be sought by:

(a) Either or both parties, or the guardian of an incompetent spouse, for any cause specified in subsection (4) of this section; or

(b) Either or both parties, the legal spouse, or a child of either party when it is alleged that the marriage is bigamous.

(2) If the validity of a marriage is denied or questioned at any time, either or both parties to the marriage may petition the court for a judicial determination of the validity of such marriage.

(3) In a proceeding to declare the invalidity of a marriage, the court shall proceed in the manner and shall have the jurisdiction, including the authority to provide for maintenance, a parenting plan for minor children, and division of the property of the parties, provided by this chapter.

(4) After hearing the evidence concerning the validity of a marriage, if both parties to the alleged marriage are still living, the court:

(a) If it finds the marriage to be valid, shall enter a decree of validity;

(b) If it finds that:

(i) The marriage should not have been contracted because of age of one or both of the parties, lack of required parental or court approval, a prior undissolved marriage of one or both of the parties, reasons of consanguinity, or because a party lacked capacity to consent to the marriage, either because of mental incapacity or because of the

influence of alcohol or other incapacitating substances, or because a party was induced to enter into the marriage by force or duress, or by fraud involving the essentials of marriage, and that the parties have not ratified their marriage by voluntarily cohabiting after attaining the age of consent, or after attaining capacity to consent, or after cessation of the force or duress or discovery of the fraud, shall declare the marriage invalid as of the date it was purportedly contracted;

(ii) The marriage should not have been contracted because of any reason other than those above, shall upon motion of a party, order any action which may be appropriate to complete or to correct the record and enter a decree declaring such marriage to be valid for all purposes from the date upon which it was purportedly contracted;

(c) If it finds that a marriage contracted in a jurisdiction other than this state, was void or voidable under the law of the place where the marriage was contracted, and in the absence of proof that such marriage was subsequently validated by the laws of the place of contract or of a subsequent domicile of the parties, shall declare the marriage invalid as of the date of the marriage.

(5) Any child of the parties born or conceived during the existence of a marriage of record is legitimate and remains legitimate notwithstanding the entry of a declaration of invalidity of the marriage. [1987 c 460 § 4; 1975 c 32 § 2; 1973 1st ex.s. c 157 § 4.]

26.09.050 Decrees—Provisions for parenting plan—Maintenance—Disposition of property and liabilities—Tax exemptions—Continuing restraining orders—Name changes. In entering a decree of dissolution of marriage, legal separation, or declaration of invalidity, the court shall determine the marital status of the parties, make provision for a parenting plan for any minor child of the marriage, make provision for the support of any child of the marriage entitled to support, consider or approve provision for the maintenance of either spouse, make provision for the disposition of property and liabilities of the parties, make provision for the allocation of the children as federal tax exemptions, make provision for any necessary continuing restraining orders, and make provision for the change of name of any party. [1989 c 375 § 29; 1987 c 460 § 5; 1973 1st ex.s. c 157 § 5.]

26.09.060 Temporary maintenance or child support—Temporary restraining order—Preliminary injunction—Support debts, notice. (1) In a proceeding for:

(a) Dissolution of marriage, legal separation, or a declaration of invalidity; or

(b) Disposition of property or liabilities, maintenance, or support following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse; either party may move for temporary maintenance or for temporary support of children entitled to support. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.

(2) As a part of a motion for temporary maintenance or support or by independent motion accompanied by affidavit, either party may request the court to issue a temporary restraining order or preliminary injunction, providing relief

proper in the circumstances, and restraining or enjoining any person from:

(a) Transferring, removing, encumbering, concealing, or in any way disposing of any property except in the usual course of business or for the necessities of life, and, if so restrained or enjoined, requiring him to notify the moving party of any proposed extraordinary expenditures made after the order is issued;

(b) Molesting or disturbing the peace of the other party or of any child and, upon a showing by clear and convincing evidence that the party so restrained or enjoined has used or displayed or threatened to use a deadly weapon as defined in RCW 9A.04.110 in an act of violence or has previously committed acts of domestic violence and is likely to use or display or threaten to use a deadly weapon in an act of domestic violence, requiring the party to surrender any deadly weapon in his immediate possession or control or subject to his immediate possession or control to the sheriff of the county having jurisdiction of the proceeding or to the restrained or enjoined party's counsel or to any person designated by the court. The court may order temporary surrender of deadly weapons without notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for response has elapsed;

(c) Entering the family home or the home of the other party upon a showing of the necessity therefor;

(d) Removing a child from the jurisdiction of the court.

(3) The court may issue a temporary restraining order without requiring notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for responding has elapsed.

(4) The court may issue a temporary restraining order or preliminary injunction and an order for temporary maintenance or support in such amounts and on such terms as are just and proper in the circumstances. The court may in its discretion waive the filing of the bond or the posting of security.

(5) Restraining orders issued under this section restraining the person from molesting or disturbing another party or from entering a party's home shall bear the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.09 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

(6) The court may order that any temporary restraining order granted under this section be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall forthwith enter the order for one year into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state.

(7) A temporary order, temporary restraining order, or preliminary injunction:

(a) Does not prejudice the rights of a party or any child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified;

(c) Terminates when the final decree is entered, except as provided under subsection (8) of this section, or when the petition for dissolution, legal separation, or declaration of invalidity is dismissed;

(d) May be entered in a proceeding for the modification of an existing decree.

(8) Delinquent support payments accrued under an order for temporary support remain collectible and are not extinguished when a final decree is entered unless the decree contains specific language to the contrary. A support debt under a temporary order owed to the state for public assistance expenditures shall not be extinguished by the final decree if:

(a) The obligor was given notice of the state's interest under chapter 74.20A RCW; or

(b) The temporary order directs the obligor to make support payments to the office of support enforcement or the Washington state support registry. [1992 c 229 § 9; 1989 c 360 § 37; 1984 c 263 § 26; 1983 1st ex.s. c 41 § 1; 1983 c 232 § 10; 1975 c 32 § 3; 1973 1st ex.s. c 157 § 6.]

Effective date—Severability—1984 c 263: See RCW 26.50.901 and 26.50.902.

Severability—1983 1st ex.s. c 41: "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." [1983 1st ex.s. c 41 § 46.]

Severability—1983 c 232: See note following RCW 9.41.010.

Arrest without warrant in domestic violence cases: RCW 10.31.100(2).

Child abuse, temporary restraining order: RCW 26.44.063.

Ex parte temporary order for protection: RCW 26.50.070.

Orders for protection in cases of domestic violence: RCW 26.50.030.

Orders prohibiting contact: RCW 10.99.040.

26.09.070 Separation contracts. (1) The parties to a marriage, in order to promote the amicable settlement of disputes attendant upon their separation or upon the filing of a petition for dissolution of their marriage, a decree of legal separation, or declaration of invalidity of their marriage, may enter into a written separation contract providing for the maintenance of either of them, the disposition of any property owned by both or either of them, the parenting plan and support for their children and for the release of each other from all obligation except that expressed in the contract.

(2) If the parties to such contract elect to live separate and apart without any court decree, they may record such contract and cause notice thereof to be published in a legal newspaper of the county wherein the parties resided prior to their separation. Recording such contract and publishing notice of the making thereof shall constitute notice to all persons of such separation and of the facts contained in the recorded document.

(3) If either or both of the parties to a separation contract shall at the time of the execution thereof, or at a subsequent time, petition the court for dissolution of their marriage, for a decree of legal separation, or for a declaration of invalidity of their marriage, the contract, except for those terms providing for a parenting plan for their children,

shall be binding upon the court unless it finds, after considering the economic circumstances of the parties and any other relevant evidence produced by the parties on their own motion or on request of the court, that the separation contract was unfair at the time of its execution. Child support may be included in the separation contract and shall be reviewed in the subsequent proceeding for compliance with RCW 26.19.020.

(4) If the court in an action for dissolution of marriage, legal separation, or declaration of invalidity finds that the separation contract was unfair at the time of its execution, it may make orders for the maintenance of either party, the disposition of their property and the discharge of their obligations.

(5) Unless the separation contract provides to the contrary, the agreement shall be set forth in the decree of dissolution, legal separation, or declaration of invalidity, or filed in the action or made an exhibit and incorporated by reference, except that in all cases the terms of the parenting plan shall be set out in the decree, and the parties shall be ordered to comply with its terms.

(6) Terms of the contract set forth or incorporated by reference in the decree may be enforced by all remedies available for the enforcement of a judgment, including contempt, and are enforceable as contract terms.

(7) When the separation contract so provides, the decree may expressly preclude or limit modification of any provision for maintenance set forth in the decree. Terms of a separation contract pertaining to a parenting plan for the children and, in the absence of express provision to the contrary, terms providing for maintenance set forth or incorporated by reference in the decree are automatically modified by modification of the decree.

(8) If at any time the parties to the separation contract by mutual agreement elect to terminate the separation contract they may do so without formality unless the contract was recorded as in subsection (2) of this section, in which case a statement should be filed terminating the contract. [1989 c 375 § 4; 1987 c 460 § 6; 1973 1st ex.s. c 157 § 7.]

26.09.080 Disposition of property and liabilities—

Factors. In a proceeding for dissolution of the marriage, legal separation, declaration of invalidity, or in a proceeding for disposition of property following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property, the court shall, without regard to marital misconduct, make such disposition of the property and the liabilities of the parties, either community or separate, as shall appear just and equitable after considering all relevant factors including, but not limited to:

- (1) The nature and extent of the community property;
- (2) The nature and extent of the separate property;
- (3) The duration of the marriage; and

(4) The economic circumstances of each spouse at the time the division of property is to become effective, including the desirability of awarding the family home or the right to live therein for reasonable periods to a spouse with whom the children reside the majority of the time. [1989 c 375 § 5; 1973 1st ex.s. c 157 § 8.]

26.09.090 Maintenance orders for either spouse—
Factors. (1) In a proceeding for dissolution of marriage, legal separation, declaration of invalidity, or in a proceeding for maintenance following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse, the court may grant a maintenance order for either spouse. The maintenance order shall be in such amounts and for such periods of time as the court deems just, without regard to marital misconduct, after considering all relevant factors including but not limited to:

(a) The financial resources of the party seeking maintenance, including separate or community property apportioned to him, and his ability to meet his needs independently, including the extent to which a provision for support of a child living with the party includes a sum for that party;

(b) The time necessary to acquire sufficient education or training to enable the party seeking maintenance to find employment appropriate to his skill, interests, style of life, and other attendant circumstances;

(c) The standard of living established during the marriage;

(d) The duration of the marriage;

(e) The age, physical and emotional condition, and financial obligations of the spouse seeking maintenance; and

(f) The ability of the spouse from whom maintenance is sought to meet his needs and financial obligations while meeting those of the spouse seeking maintenance. [1989 c 375 § 6; 1973 1st ex.s. c 157 § 9.]

26.09.100 Child support—Apportionment of expense—Periodic adjustments or modifications.

(1) In a proceeding for dissolution of marriage, legal separation, declaration of invalidity, maintenance, or child support, after considering all relevant factors but without regard to marital misconduct, the court shall order either or both parents owing a duty of support to any child of the marriage dependent upon either or both spouses to pay an amount determined under chapter 26.19 RCW.

(2) The court may require automatic periodic adjustments or modifications of child support. That portion of any decree that requires periodic adjustments or modifications of child support shall use the provisions in chapter 26.19 RCW as the basis for the adjustment or modification. Provisions in the decree for periodic adjustment or modification shall not conflict with RCW 26.09.170 except that the decree may require periodic adjustments or modifications of support more frequently than the time periods established pursuant to RCW 26.09.170.

(3) Upon motion of a party and without a substantial change of circumstances, the court shall modify the decree to comply with subsection (2) of this section as to installments accruing subsequent to entry of the court's order on the motion for modification.

(4) The adjustment or modification provision may be modified by the court due to economic hardship consistent with the provisions of RCW 26.09.170(4)(a). [1991 sp.s. c 28 § 1; 1990 1st ex.s. c 2 § 1; 1989 c 375 § 7; 1988 c 275 § 9; 1987 c 430 § 3; 1973 1st ex.s. c 157 § 10.]

Severability—1991 sp.s. c 28: "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." [1991 sp.s. c 28 § 9.]

Effective date—1991 sp.s. c 28: "Sections 1 through 9 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect September 1, 1991." [1991 sp.s. c 28 § 10.]

Captions not law—1991 sp.s. c 28: "Captions as used in this act do not constitute any part of the law." [1991 sp.s. c 28 § 11.]

Effective dates—1990 1st ex.s. c 2: "(1) Sections 5 and 22 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 26, 1990].

(2) The remainder of this act shall take effect July 1, 1990." [1990 1st ex.s. c 2 § 30.]

Severability—1990 1st ex.s. c 2: "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." [1990 1st ex.s. c 2 § 31.]

Effective dates—Severability—1988 c 275: See notes following RCW 26.19.001.

Severability—1987 c 430: See note following RCW 26.09.170.

26.09.105 Child support—Health insurance coverage—Conditions. (1) In entering or modifying a support order under this chapter, the court shall require either or both parents to maintain or provide health insurance coverage except as provided in subsection (2) of this section, for any child named in the order if:

(a) Coverage that can be extended to cover the child is or becomes available to that parent through employment or is union-related; and

(b) The cost of such coverage does not exceed twenty-five percent of the obligated parent's basic child support obligation.

(2) The court shall consider the best interests of the child and have discretion to order health insurance coverage when entering or modifying a support order under this chapter if the cost of such coverage exceeds twenty-five percent of the obligated parent's basic support obligation.

(3) The parents shall maintain such coverage required under this section until:

(a) Further order of the court;

(b) The child is emancipated, if there is no express language to the contrary in the order; or

(c) Health insurance is no longer available through the parents' employer or union and no conversion privileges exist to continue coverage following termination of employment.

(4) A parent who is required to extend health insurance coverage to a child under this section is liable for any covered health care costs for which the parent receives direct payment from an insurer.

(5) This section shall not be construed to limit the authority of the court to enter or modify support orders containing provisions for payment of uninsured health expenses, health care costs, or insurance premiums which are in addition to and not inconsistent with this section.

(6) A parent ordered to provide health insurance coverage shall provide proof of such coverage within twenty days of the entry of the order, or within twenty days of the date such coverage becomes available, to:

(a) The physical custodian; or

(b) The department of social and health services if the parent has been notified or ordered to make support payments to the Washington state support registry.

(7) Every order requiring a parent to provide health care or insurance coverage shall be entered in compliance with *RCW 26.23.050 and be subject to direct enforcement as provided under chapter 26.18 RCW.

(8) "Health insurance coverage" as used in this section does not include medical assistance provided under chapter 74.09 RCW. [1989 c 416 § 1; 1985 c 108 § 1; 1984 c 201 § 1.]

***Reviser's note:** The reference to RCW 26.23.050 appears to refer to the amendments made by 1989 c 416 § 8, which was vetoed by the governor.

26.09.110 Minor or dependent child—Court appointed attorney to represent—Payment of costs, fees, and disbursements. The court may appoint an attorney to represent the interests of a minor or dependent child with respect to provision for the parenting plan in an action for dissolution of marriage, legal separation, or declaration concerning the validity of a marriage. The court shall enter an order for costs, fees, and disbursements in favor of the child's attorney. The order shall be made against either or both parents, except that, if both parties are indigent, the costs, fees, and disbursements shall be borne by the county. [1987 c 460 § 11; 1973 1st ex.s. c 157 § 11.]

Process—Domestic relations actions: Rules of court: CR 4.1.

26.09.120 Support or maintenance payments—To whom paid. (1) The court shall order support payments, including spousal maintenance if child support is ordered, to be made to the Washington state support registry, or the person entitled to receive the payments under an alternate payment plan approved by the court as provided in RCW 26.23.050.

(2) Maintenance payments, when ordered in an action where there is no dependent child, may be ordered to be paid to the person entitled to receive the payments, or the clerk of the court as trustee for remittance to the persons entitled to receive the payments.

(3) If support or maintenance payments are made to the clerk of court, the clerk:

(a) Shall maintain records listing the amount of payments, the date when payments are required to be made, and the names and addresses of the parties affected by the order;

(b) May by local court rule accept only certified funds or cash as payment; and

(c) Shall accept only certified funds or cash for five years in all cases after one check has been returned for nonsufficient funds or account closure.

(4) The parties affected by the order shall inform the registry through which the payments are ordered to be paid of any change of address or of other conditions that may affect the administration of the order. [1989 c 360 § 11. Prior: 1987 c 435 § 15; 1987 c 363 § 5; 1983 1st ex.s. c 45 § 3; 1973 1st ex.s. c 157 § 12.]

Effective date—1987 c 435: See RCW 26.23.900.

26.09.135 Order or decree for child support—Compliance with RCW 26.23.050. Every court order or decree establishing a child support obligation shall be entered in compliance with the provisions of RCW

26.23.050. [1987 c 435 § 16; 1986 c 138 § 1; 1984 c 260 § 21.]

Effective date—1987 c 435: See RCW 26.23.900.

Severability—1984 c 260: See RCW 26.18.900.

26.09.138 Mandatory assignment of public retirement benefits—Remedies exclusive. (1) Any obligee of a court order or decree establishing a spousal maintenance obligation may seek a mandatory benefits assignment order under chapter 41.50 RCW if any spousal maintenance payment is more than fifteen days past due and the total of such past due payments is equal to or greater than one hundred dollars, or if the obligor requests a withdrawal of accumulated contributions from the department of retirement systems.

(2) Any court order or decree establishing a spousal maintenance obligation may state that, if any spousal maintenance payment is more than fifteen days past due and the total of such past due payments is equal to or greater than one hundred dollars, or if the obligor requests a withdrawal of accumulated contributions from the department of retirement systems, the obligee may seek a mandatory benefits assignment order under chapter 41.50 RCW without prior notice to the obligor. Any such court order or decree may also, or in the alternative, contain a provision that would allow the department to make a direct payment of all or part of a withdrawal of accumulated contributions pursuant to RCW 41.50.550(3). Failure to include this provision does not affect the validity of the court order or decree establishing the spousal maintenance, nor does such failure affect the general applicability of RCW 41.50.500 through 41.50.650 to such obligations.

(3) The remedies in RCW 41.50.530 through 41.50.630 are the exclusive provisions of law enforceable against the department of retirement systems in connection with any action for enforcement of a spousal maintenance obligation ordered pursuant to a divorce, dissolution, or legal separation, and no other remedy ordered by a court under this chapter shall be enforceable against the department of retirement systems for collection of spousal maintenance.

(4)(a) Nothing in this section regarding mandatory assignment of benefits to enforce a spousal maintenance obligation shall abridge the right of an ex spouse to receive direct payment of retirement benefits payable pursuant to: (i) A court decree of dissolution or legal separation; or (ii) any court order or court-approved property settlement agreement; or (iii) incident to any court decree of dissolution or legal separation, if such dissolution orders fully comply with RCW 41.50.670 and 41.50.700, or as applicable, RCW 2.10.180, 2.12.090, 41.04.310, 41.04.320, 41.04.330, 41.26.180, 41.32.052, 41.40.052, or 43.43.310 as those statutes existed before July 1, 1987, and as those statutes exist on and after July 28, 1991.

(b) Persons whose dissolution orders as defined in RCW 41.50.500(3) were entered between July 1, 1987, and July 28, 1991, shall be entitled to receive direct payments of retirement benefits to satisfy court-ordered property divisions if the dissolution orders filed with the department comply or are amended to comply with RCW 41.50.670 through 41.50.720 and, as applicable, RCW 2.10.180, 2.12.090,

41.26.180, 41.32.052, 41.40.052, or 43.43.310. [1991 c 365 § 24; 1987 c 326 § 26.]

Severability—1991 c 365: See note following RCW 41.50.500.

Effective date—1987 c 326: See RCW 41.50.901.

26.09.140 Payment of costs, attorney's fees, etc. The court from time to time after considering the financial resources of both parties may order a party to pay a reasonable amount for the cost to the other party of maintaining or defending any proceeding under this chapter and for reasonable attorney's fees or other professional fees in connection therewith, including sums for legal services rendered and costs incurred prior to the commencement of the proceeding or enforcement or modification proceedings after entry of judgment.

Upon any appeal, the appellate court may, in its discretion, order a party to pay for the cost to the other party of maintaining the appeal and attorney's fees in addition to statutory costs.

The court may order that the attorney's fees be paid directly to the attorney who may enforce the order in his name. [1973 1st ex.s. c 157 § 14.]

26.09.150 Decree of dissolution of marriage, legal separation, or declaration of invalidity—Finality—Appeal—Conversion of decree of legal separation to decree of dissolution—Name of party. A decree of dissolution of marriage, legal separation, or declaration of invalidity is final when entered, subject to the right of appeal. An appeal which does not challenge the finding that the marriage is irretrievably broken or was invalid, does not delay the finality of the dissolution or declaration of invalidity and either party may remarry pending such an appeal.

No earlier than six months after entry of a decree of legal separation, on motion of either party, the court shall convert the decree of legal separation to a decree of dissolution of marriage. The clerk of court shall complete the certificate as provided for in *RCW 70.58.200 on the form provided by the department of health. On or before the tenth day of each month, the clerk of the court shall forward to the state registrar of vital statistics the certificate of each decree of divorce, dissolution of marriage, annulment, or separate maintenance granted during the preceding month.

Upon request of a party whose marriage is dissolved or declared invalid, the court shall order a former name restored or the court may, in its discretion, order a change to another name. [1989 1st ex.s. c 9 § 205; 1989 c 375 § 30; 1973 1st ex.s. c 157 § 15.]

Reviser's note: (1) This section was amended by 1989 c 375 § 30 and by 1989 1st ex.s. c 9 § 205, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

*(2) RCW 70.58.200 was repealed by 1991 c 96 § 6.

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

26.09.160 Failure to comply with decree or temporary injunction—Obligation to make support or maintenance payments or permit contact with children not suspended—Penalties. (1) The performance of parental functions and the duty to provide child support are distinct responsibilities in the care of a child. If a party fails to

comply with a provision of a decree or temporary order of injunction, the obligation of the other party to make payments for support or maintenance or to permit contact with children is not suspended. An attempt by a parent, in either the negotiation or the performance of a parenting plan, to condition one aspect of the parenting plan upon another, to condition payment of child support upon an aspect of the parenting plan, to refuse to pay ordered child support, to refuse to perform the duties provided in the parenting plan, or to hinder the performance by the other parent of duties provided in the parenting plan, shall be deemed bad faith and shall be punished by the court by holding the party in contempt of court and by awarding to the aggrieved party reasonable attorneys' fees and costs incidental in bringing a motion for contempt of court.

(2)(a) A motion may be filed to initiate a contempt action to coerce a parent to comply with an order establishing residential provisions for a child. If the court finds there is reasonable cause to believe the parent has not complied with the order, the court may issue an order to show cause why the relief requested should not be granted.

(b) If, based on all the facts and circumstances, the court finds after hearing that the parent, in bad faith, has not complied with the order establishing residential provisions for the child, the court shall find the parent in contempt of court. Upon a finding of contempt, the court shall order:

(i) The noncomplying parent to provide the moving party additional time with the child. The additional time shall be equal to the time missed with the child, due to the parent's noncompliance;

(ii) The parent to pay, to the moving party, all court costs and reasonable attorneys' fees incurred as a result of the noncompliance, and any reasonable expenses incurred in locating or returning a child; and

(iii) The parent to pay, to the moving party, a civil penalty, not less than the sum of one hundred dollars.

The court may also order the parent to be imprisoned in the county jail, if the parent is presently able to comply with the provisions of the court-ordered parenting plan and is presently unwilling to comply. The parent may be imprisoned until he or she agrees to comply with the order, but in no event for more than one hundred eighty days.

(3) On a second failure within three years to comply with a residential provision of a court-ordered parenting plan, a motion may be filed to initiate contempt of court proceedings according to the procedure set forth in subsection (2) (a) and (b) of this section. On a finding of contempt under this subsection, the court shall order:

(a) The noncomplying parent to provide the other parent or party additional time with the child. The additional time shall be twice the amount of the time missed with the child, due to the parent's noncompliance;

(b) The noncomplying parent to pay, to the other parent or party, all court costs and reasonable attorneys' fees incurred as a result of the noncompliance, and any reasonable expenses incurred in locating or returning a child; and

(c) The noncomplying parent to pay, to the moving party, a civil penalty of not less than two hundred fifty dollars.

The court may also order the parent to be imprisoned in the county jail, if the parent is presently able to comply with the provisions of the court-ordered parenting plan and is

presently unwilling to comply. The parent may be imprisoned until he or she agrees to comply with the order but in no event for more than one hundred eighty days.

(4) For purposes of subsections (1), (2), and (3) of this section, the parent shall be deemed to have the present ability to comply with the order establishing residential provisions unless he or she establishes otherwise by a preponderance of the evidence. The parent shall establish a reasonable excuse for failure to comply with the residential provision of a court-ordered parenting plan by a preponderance of the evidence.

(5) Any monetary award ordered under subsections (1), (2), and (3) of this section may be enforced, by the party to whom it is awarded, in the same manner as a civil judgment.

(6) Subsections (1), (2), and (3) of this section authorize the exercise of the court's power to impose remedial sanctions for contempt of court and is in addition to any other contempt power the court may possess.

(7) Upon motion for contempt of court under subsections (1) through (3) of this section, if the court finds the motion was brought without reasonable basis, the court shall order the moving party to pay to the nonmoving party, all costs, reasonable attorneys' fees, and a civil penalty of not less than one hundred dollars. [1991 c 367 § 4; 1989 c 318 § 1; 1987 c 460 § 12; 1973 1st ex.s. c 157 § 16.]

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.

Severability—1989 c 318: "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." [1989 c 318 § 6.]

26.09.165 Court orders—Required language. All court orders containing parenting plan provisions or orders of contempt, entered pursuant to RCW 26.09.160, shall include the following language:

WARNING: VIOLATION OF THE RESIDENTIAL PROVISIONS OF THIS ORDER WITH ACTUAL KNOWLEDGE OF ITS TERMS IS PUNISHABLE BY CONTEMPT OF COURT, AND MAY BE A CRIMINAL OFFENSE UNDER RCW 9A.40.070(2). VIOLATION OF THIS ORDER MAY SUBJECT A VIOLATOR TO ARREST.

[1989 c 318 § 4.]

Severability—1989 c 318: See note following RCW 26.09.160.

26.09.170 Modification of decree for maintenance or support, property disposition—Termination of maintenance obligation and child support—Grounds. (1) Except as otherwise provided in subsection (7) of RCW 26.09.070, the provisions of any decree respecting maintenance or support may be modified: (a) Only as to installments accruing subsequent to the petition for modification or motion for adjustment except motions to compel court-ordered adjustments, which shall be effective as of the first date specified in the decree for implementing the adjustment; and, (b) except as otherwise provided in subsections (4), (5), (8), and (9) of this section, only upon a showing of a substantial change of circumstances. The provisions as to property disposition may not be revoked or modified, unless

the court finds the existence of conditions that justify the reopening of a judgment under the laws of this state.

(2) Unless otherwise agreed in writing or expressly provided in the decree the obligation to pay future maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.

(3) Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a child are terminated by emancipation of the child or by the death of the parent obligated to support the child.

(4) An order of child support may be modified one year or more after it has been entered without showing a substantial change of circumstances:

(a) If the order in practice works a severe economic hardship on either party or the child;

(b) If a party requests an adjustment in an order for child support which was based on guidelines which determined the amount of support according to the child's age, and the child is no longer in the age category on which the current support amount was based;

(c) If a child is still in high school, upon a finding that there is a need to extend support beyond the eighteenth birthday to complete high school; or

(d) To add an automatic adjustment of support provision consistent with RCW 26.09.100.

(5) An order or decree entered prior to June 7, 1984, may be modified without showing a substantial change of circumstances if the requested modification is to:

(a) Require health insurance coverage for a child named therein; or

(b) Modify an existing order for health insurance coverage.

(6) An obligor's voluntary unemployment or voluntary underemployment, by itself, is not a substantial change of circumstances.

(7) The department of social and health services may file an action to modify an order of child support if public assistance money is being paid to or for the benefit of the child and the child support order is twenty-five percent or more below the appropriate child support amount set forth in the standard calculation as defined in RCW 26.19.011 and reasons for the deviation are not set forth in the findings of fact or order. The determination of twenty-five percent or more shall be based on the current income of the parties and the department shall not be required to show a substantial change of circumstances if the reasons for the deviations were not set forth in the findings of fact or order.

(8)(a) All child support decrees may be adjusted once every twenty-four months based upon changes in the income of the parents without a showing of substantially changed circumstances. Either party may initiate the adjustment by filing a motion and child support worksheets.

(b) A party may petition for modification in cases of substantially changed circumstances under subsection (1) of this section at any time. However, if relief is granted under subsection (1) of this section, twenty-four months must pass before a motion for an adjustment under (a) of this subsection may be filed.

(c) If, pursuant to (a) of this subsection or subsection (9) of this section, the court adjusts or modifies a child support obligation by more than thirty percent and the change would cause significant hardship, the court may

implement the change in two equal increments, one at the time of the entry of the order and the second six months from the entry of the order. Twenty-four months must pass following the second change before a motion for an adjustment under (a) of this subsection may be filed.

(d) A parent who is receiving transfer payments who receives a wage or salary increase may not bring a modification action pursuant to subsection (1) of this section alleging that increase constitutes a substantial change of circumstances.

(9) An order of child support may be adjusted twenty-four months from the date of the entry of the decree or the last adjustment or modification, whichever is later, based upon changes in the economic table or standards in chapter 26.19 RCW. [1992 c 229 § 2; 1991 sp.s. c 28 § 2; 1990 1st ex.s. c 2 § 2; 1989 c 416 § 3; 1988 c 275 § 17; 1987 c 430 § 1; 1973 1st ex.s. c 157 § 17.]

Severability—Effective date—Captions not law—1991 sp.s. c 28: See notes following RCW 26.09.100.

Effective dates—Severability—1990 1st ex.s. c 2: See notes following RCW 26.09.100.

Effective dates—Severability—1988 c 275: See notes following RCW 26.19.001.

Severability—1987 c 430: "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." [1987 c 430 § 4.]

26.09.173 Modification of child support order—Child support order summary report. The party seeking the establishment or modification of a child support order shall file with the clerk of the court the child support order summary report. The summary report shall be on the form developed by the administrator for the courts pursuant to RCW 26.18.210. The party must complete the form and file the form with the court order. The clerk of the court must forward the form to the administrator for the courts on at least a monthly basis. [1990 1st ex.s. c 2 § 23.]

Effective dates—Severability—1990 1st ex.s. c 2: See notes following RCW 26.09.100.

26.09.175 Modification of order of child support. (1) A proceeding for the modification of an order of child support shall commence with the filing of a petition and worksheets. The petition shall be in the form prescribed by the administrator for the courts. There shall be a fee of twenty dollars for the filing of a petition for modification of dissolution.

(2) The petitioner shall serve upon the other party the summons, a copy of the petition, and the worksheets in the form prescribed by the administrator for the courts. If the modification proceeding is the first action filed in this state, service shall be made by personal service. If the decree to be modified was entered in this state, service shall be by personal service or by any form of mail requiring a return receipt. If the support obligation has been assigned to the state pursuant to RCW 74.20.330 or the state has a subrogated interest under RCW 74.20A.030, the summons, petition, and worksheets shall also be served on the attorney general. Proof of service shall be filed with the court.

(3) The responding party's answer and worksheets shall be served and the answer filed within twenty days after

service of the petition or sixty days if served out of state. The responding party's failure to file an answer within the time required shall result in entry of a default judgment for the petitioner.

(4) At any time after responsive pleadings are filed, either party may schedule the matter for hearing.

(5) Unless both parties stipulate to arbitration or the presiding judge authorizes oral testimony pursuant to subsection (6) of this section, a petition for modification of an order of child support shall be heard by the court on affidavits, the petition, answer, and worksheets only.

(6) A party seeking authority to present oral testimony on the petition to modify a support order shall file an appropriate motion not later than ten days after the time of notice of hearing. Affidavits and exhibits setting forth the reasons oral testimony is necessary to a just adjudication of the issues shall accompany the petition. The affidavits and exhibits must demonstrate the extraordinary features of the case. Factors which may be considered include, but are not limited to: (a) Substantial questions of credibility on a major issue; (b) insufficient or inconsistent discovery materials not correctable by further discovery; or (c) particularly complex circumstances requiring expert testimony. [1992 c 229 § 3; 1991 c 367 § 6; 1990 1st ex.s. c 2 § 3; 1987 c 430 § 2.]

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.

Effective dates—Severability—1990 1st ex.s. c 2: See notes following RCW 26.09.100.

Severability—1987 c 430: See note following RCW 26.09.170.

26.09.181 Procedure for determining permanent parenting plan. (1) **SUBMISSION OF PROPOSED PLANS.** (a) In any proceeding under this chapter, except a modification, each party shall file and serve a proposed permanent parenting plan on or before the earliest date of:

(i) Thirty days after filing and service by either party of a notice for trial; or

(ii) One hundred eighty days after commencement of the action which one hundred eighty day period may be extended by stipulation of the parties.

(b) In proceedings for a modification of custody or a parenting plan, a proposed parenting plan shall be filed and served with the motion for modification and with the response to the motion for modification.

(c) No proposed permanent parenting plan shall be required after filing of an agreed permanent parenting plan, after entry of a final decree, or after dismissal of the cause of action.

(d) A party who files a proposed parenting plan in compliance with this section may move the court for an order of default adopting that party's parenting plan if the other party has failed to file a proposed parenting plan as required in this section.

(2) **AMENDING PROPOSED PARENTING PLANS.** Either party may file and serve an amended proposed permanent parenting plan according to the rules for amending pleadings.

(3) **GOOD FAITH PROPOSAL.** The parent submitting a proposed parenting plan shall attach a verified statement that the plan is proposed by that parent in good faith.

(4) **AGREED PERMANENT PARENTING PLANS.** The parents may make an agreed permanent parenting plan.

(5) **MANDATORY SETTLEMENT CONFERENCE.** Where mandatory settlement conferences are provided under court rule, the parents shall attend a mandatory settlement conference. The mandatory settlement conference shall be presided over by a judge or a court commissioner, who shall apply the criteria in RCW 26.09.187 and 26.09.191. The parents shall in good faith review the proposed terms of the parenting plans and any other issues relevant to the cause of action with the presiding judge or court commissioner. Facts and legal issues that are not then in dispute shall be entered as stipulations for purposes of final hearing or trial in the matter.

(6) **TRIAL SETTING.** Trial dates for actions involving minor children brought under this chapter shall receive priority.

(7) **ENTRY OF FINAL ORDER.** The final order or decree shall be entered not sooner than ninety days after filing and service.

This subsection does not apply to decrees of legal separation. [1989 2nd ex.s. c 2 § 1; 1989 c 375 § 8; 1987 c 460 § 7.]

26.09.184 Permanent parenting plan. (1) **OBJECTIVES.** The objectives of the permanent parenting plan are to:

(a) Provide for the child's physical care;

(b) Maintain the child's emotional stability;

(c) Provide for the child's changing needs as the child grows and matures, in a way that minimizes the need for future modifications to the permanent parenting plan;

(d) Set forth the authority and responsibilities of each parent with respect to the child, consistent with the criteria in RCW 26.09.187 and 26.09.191;

(e) Minimize the child's exposure to harmful parental conflict;

(f) Encourage the parents, where appropriate under RCW 26.09.187 and 26.09.191, to meet their responsibilities to their minor children through agreements in the permanent parenting plan, rather than by relying on judicial intervention; and

(g) To otherwise protect the best interests of the child consistent with RCW 26.09.002.

(2) **CONTENTS OF THE PERMANENT PARENTING PLAN.** The permanent parenting plan shall contain provisions for resolution of future disputes between the parents, allocation of decision-making authority, and residential provisions for the child.

(3) **DISPUTE RESOLUTION.** A process for resolving disputes, other than court action, shall be provided unless precluded or limited by RCW 26.09.187 or 26.09.191. A dispute resolution process may include counseling, mediation, or arbitration by a specified individual or agency, or court action. In the dispute resolution process:

(a) Preference shall be given to carrying out the parenting plan;

(b) The parents shall use the designated process to resolve disputes relating to implementation of the plan, except those related to financial support, unless an emergency exists;

(c) A written record shall be prepared of any agreement reached in counseling or mediation and of each arbitration award and shall be provided to each party;

(d) If the court finds that a parent has used or frustrated the dispute resolution process without good reason, the court shall award attorneys' fees and financial sanctions to the prevailing parent;

(e) The parties have the right of review from the dispute resolution process to the superior court; and

(f) The provisions of (a) through (e) of this subsection shall be set forth in the decree.

(4) ALLOCATION OF DECISION-MAKING AUTHORITY.

(a) The plan shall allocate decision-making authority to one or both parties regarding the children's education, health care, and religious upbringing. The parties may incorporate an agreement related to the care and growth of the child in these specified areas, or in other areas, into their plan, consistent with the criteria in RCW 26.09.187 and 26.09.191. Regardless of the allocation of decision-making in the parenting plan, either parent may make emergency decisions affecting the health or safety of the child.

(b) Each parent may make decisions regarding the day-to-day care and control of the child while the child is residing with that parent.

(c) When mutual decision making is designated but cannot be achieved, the parties shall make a good-faith effort to resolve the issue through the dispute resolution process.

(5) RESIDENTIAL PROVISIONS FOR THE CHILD. The plan shall include a residential schedule which designates in which parent's home each minor child shall reside on given days of the year, including provision for holidays, birthdays of family members, vacations, and other special occasions, consistent with the criteria in RCW 26.09.187 and 26.09.191.

(6) PARENTS' OBLIGATION UNAFFECTED. If a parent fails to comply with a provision of a parenting plan or a child support order, the other parent's obligations under the parenting plan or the child support order are not affected. Failure to comply with a provision in a parenting plan or a child support order may result in a finding of contempt of court, under RCW 26.09.160.

(7) PROVISIONS TO BE SET FORTH IN PERMANENT PARENTING PLAN. The permanent parenting plan shall set forth the provisions of subsections (3) (a) through (c), (4) (b) and (c), and (6) of this section. [1991 c 367 § 7; 1989 c 375 § 9; 1987 c 460 § 8.]

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.

Custody, designation of for purposes of other statutes: RCW 26.09.285.

Failure to comply with decree or temporary injunction—Obligations not suspended: RCW 26.09.160.

26.09.187 Criteria for establishing permanent parenting plan. (1) **DISPUTE RESOLUTION PROCESS.** The court shall not order a dispute resolution process, except court action, when it finds that any limiting factor under RCW 26.09.191 applies, or when it finds that either parent is unable to afford the cost of the proposed dispute resolution process. If a dispute resolution process is not precluded or limited, then in designating such a process the court shall consider all relevant factors, including:

(a) Differences between the parents that would substantially inhibit their effective participation in any designated process;

(b) The parents' wishes or agreements and, if the parents have entered into agreements, whether the agreements were made knowingly and voluntarily; and

(c) Differences in the parents' financial circumstances that may affect their ability to participate fully in a given dispute resolution process.

(2) ALLOCATION OF DECISION-MAKING AUTHORITY.

(a) AGREEMENTS BETWEEN THE PARTIES. The court shall approve agreements of the parties allocating decision-making authority, or specifying rules in the areas listed in RCW 26.09.184(4)(a), when it finds that:

(i) The agreement is consistent with any limitations on a parent's decision-making authority mandated by RCW 26.09.191; and

(ii) The agreement is knowing and voluntary.

(b) SOLE DECISION-MAKING AUTHORITY. The court shall order sole decision-making to one parent when it finds that:

(i) A limitation on the other parent's decision-making authority is mandated by RCW 26.09.191;

(ii) Both parents are opposed to mutual decision making;

(iii) One parent is opposed to mutual decision making, and such opposition is reasonable based on the criteria in (c) of this subsection;

(c) MUTUAL DECISION-MAKING AUTHORITY. Except as provided in (a) and (b) of this subsection, the court shall consider the following criteria in allocating decision-making authority:

(i) The existence of a limitation under RCW 26.09.191;

(ii) The history of participation of each parent in decision making in each of the areas in RCW 26.09.184(4)(a);

(iii) Whether the parents have a demonstrated ability and desire to cooperate with one another in decision making in each of the areas in RCW 26.09.184(4)(a); and

(iv) The parents' geographic proximity to one another, to the extent that it affects their ability to make timely mutual decisions.

(3) RESIDENTIAL PROVISIONS.

(a) The court shall make residential provisions for each child which encourage each parent to maintain a loving, stable, and nurturing relationship with the child, consistent with the child's developmental level and the family's social and economic circumstances. The child's residential schedule shall be consistent with RCW 26.09.191. Where the limitations of RCW 26.09.191 are not dispositive of the child's residential schedule, the court shall consider the following factors:

(i) The relative strength, nature, and stability of the child's relationship with each parent, including whether a parent has taken greater responsibility for performing parenting functions relating to the daily needs of the child;

(ii) The agreements of the parties, provided they were entered into knowingly and voluntarily;

(iii) Each parent's past and potential for future performance of parenting functions;

(iv) The emotional needs and developmental level of the child;

(v) The child's relationship with siblings and with other significant adults, as well as the child's involvement with his or her physical surroundings, school, or other significant activities;

(vi) The wishes of the parents and the wishes of a child who is sufficiently mature to express reasoned and independent preferences as to his or her residential schedule; and

(vii) Each parent's employment schedule, and shall make accommodations consistent with those schedules.

Factor (i) shall be given the greatest weight.

(b) The court may order that a child frequently alternate his or her residence between the households of the parents for brief and substantially equal intervals of time only if the court finds the following:

(i) No limitation exists under RCW 26.09.191;

(ii)(A) The parties have agreed to such provisions and the agreement was knowingly and voluntarily entered into; or

(B) The parties have a satisfactory history of cooperation and shared performance of parenting functions; the parties are available to each other, especially in geographic proximity, to the extent necessary to ensure their ability to share performance of the parenting functions; and

(iii) The provisions are in the best interests of the child. [1989 c 375 § 10; 1987 c 460 § 9.]

Custody, designation of for purposes of other statutes: RCW 26.09.285.

26.09.191 Restrictions in temporary or permanent parenting plans. (1) The permanent parenting plan shall not require mutual decision-making or designation of a dispute resolution process other than court action if it is found that a parent has engaged in any of the following conduct: (a) Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions; (b) physical, sexual, or a pattern of emotional abuse of a child; or (c) a history of acts of domestic violence as defined in RCW 26.50.010(1) or an assault or sexual assault which causes grievous bodily harm or the fear of such harm.

(2)(a) The parent's residential time with the child shall be limited if it is found that the parent has engaged in any of the following conduct: (i) Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions; (ii) physical, sexual, or a pattern of emotional abuse of a child; or (iii) a history of acts of domestic violence as defined in RCW 26.50.010(1) or an assault or sexual assault which causes grievous bodily harm or the fear of such harm.

(b) The limitations imposed by the court shall be reasonably calculated to protect the child from physical, sexual, or emotional abuse or harm that could result if the child has contact with the parent requesting residential time. If the court expressly finds limitation on the residential time with the child will not adequately protect the child from the harm or abuse that could result if the child has contact with the parent requesting residential time, the court shall restrain the parent requesting residential time from all contact with the child.

(c) If the court expressly finds that contact between the parent and the child will not cause physical, sexual, or emotional abuse or harm to the child and that the probability that the parent's harmful or abusive conduct will recur is so remote that it would not be in the child's best interests to apply the limitations of (a) and (b) of this subsection, or if the court expressly finds the parent's conduct did not have an impact on the child, then the court need not apply the limitations of (a) and (b) of this subsection. The weight given to the existence of a protection order issued under chapter 26.50 RCW as to domestic violence is within the discretion of the court.

(3) A parent's involvement or conduct may have an adverse effect on the child's best interests, and the court may preclude or limit any provisions of the parenting plan, if any of the following factors exist:

(a) A parent's neglect or substantial nonperformance of parenting functions;

(b) A long-term emotional or physical impairment which interferes with the parent's performance of parenting functions as defined in RCW 26.09.004;

(c) A long-term impairment resulting from drug, alcohol, or other substance abuse that interferes with the performance of parenting functions;

(d) The absence or substantial impairment of emotional ties between the parent and the child;

(e) The abusive use of conflict by the parent which creates the danger of serious damage to the child's psychological development;

(f) A parent has withheld from the other parent access to the child for a protracted period without good cause; or

(g) Such other factors or conduct as the court expressly finds adverse to the best interests of the child.

(4) In entering a permanent parenting plan, the court shall not draw any presumptions from the provisions of the temporary parenting plan.

(5) In determining whether any of the conduct described in this section has occurred, the court shall apply the civil rules of evidence, proof, and procedure. [1989 c 375 § 11; 1989 c 326 § 1; 1987 c 460 § 10.]

Reviser's note: This section was amended by 1989 c 326 § 1 and by 1989 c 375 § 11, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

26.09.194 Proposed temporary parenting plan—Temporary order—Amendment—Vacation of order. (1) A parent seeking a temporary order relating to parenting shall file and serve a proposed temporary parenting plan by motion. The other parent, if contesting the proposed temporary parenting plan, shall file and serve a responsive proposed parenting plan. Either parent may move to have a proposed temporary parenting plan entered as part of a temporary order. The parents may enter an agreed temporary parenting plan at any time as part of a temporary order. The proposed temporary parenting plan may be supported by relevant evidence and shall be accompanied by an affidavit or declaration which shall state at a minimum the following:

(a) The name, address, and length of residence with the person or persons with whom the child has lived for the preceding twelve months;

(b) The performance by each parent during the last twelve months of the parenting functions relating to the daily needs of the child;

(c) The parents' work and child-care schedules for the preceding twelve months;

(d) The parents' current work and child-care schedules; and

(e) Any of the circumstances set forth in RCW 26.09.191 that are likely to pose a serious risk to the child and that warrant limitation on the award to a parent of temporary residence or time with the child pending entry of a permanent parenting plan.

(2) At the hearing, the court shall enter a temporary parenting order incorporating a temporary parenting plan which includes:

(a) A schedule for the child's time with each parent when appropriate;

(b) Designation of a temporary residence for the child;

(c) Allocation of decision-making authority, if any. Absent allocation of decision-making authority consistent with RCW 26.09.187(2), neither party shall make any decision for the child other than those relating to day-to-day or emergency care of the child, which shall be made by the party who is present with the child;

(d) Provisions for temporary support for the child; and

(e) Restraining orders, if applicable, under RCW 26.09.060.

(3) A parent may make a motion for an order to show cause and the court may enter a temporary order, including a temporary parenting plan, upon a showing of necessity.

(4) A parent may move for amendment of a temporary parenting plan, and the court may order amendment to the temporary parenting plan, if the amendment conforms to the limitations of RCW 26.09.191 and is in the best interest of the child.

(5) If a proceeding for dissolution of marriage, legal separation, or declaration of invalidity is dismissed, any temporary order or temporary parenting plan is vacated. [1987 c 460 § 13.]

26.09.197 Issuance of temporary parenting plan—Criteria. After considering the affidavit required by RCW 26.09.194(1) and other relevant evidence presented, the court shall make a temporary parenting plan that is in the best interest of the child. In making this determination, the court shall give particular consideration to:

(1) Which parent has taken greater responsibility during the last twelve months for performing parenting functions relating to the daily needs of the child; and

(2) Which parenting arrangements will cause the least disruption to the child's emotional stability while the action is pending.

The court shall also consider the factors used to determine residential provisions in the permanent parenting plan. [1987 c 460 § 14.]

26.09.210 Parenting plans—Interview with child by court—Advice of professional personnel. The court may interview the child in chambers to ascertain the child's wishes as to the child's residential schedule in a proceeding for dissolution of marriage, legal separation, or declaration

of invalidity. The court may permit counsel to be present at the interview. The court shall cause a record of the interview to be made and to be made part of the record in the case.

The court may seek the advice of professional personnel whether or not they are employed on a regular basis by the court. The advice given shall be in writing and shall be made available by the court to counsel upon request. Counsel may call for cross-examination any professional personnel consulted by the court. [1987 c 460 § 15; 1973 1st ex.s. c 157 § 21.]

26.09.220 Parenting arrangements—Investigation and report. (1) The court may order an investigation and report concerning parenting arrangements for the child. The investigation and report may be made by the staff of the juvenile court or other professional social service organization experienced in counseling children and families.

(2) In preparing his report concerning a child, the investigator may consult any person who may have information about the child and the potential parenting or custodian arrangements. Upon order of the court, the investigator may refer the child to professional personnel for diagnosis. The investigator may consult with and obtain information from medical, psychiatric, or other expert persons who have served the child in the past without obtaining the consent of the parent or the child's custodian; but the child's consent must be obtained if he has reached the age of twelve, unless the court finds that the child lacks mental capacity to consent. If the requirements of subsection (3) of this section are fulfilled, the investigator's report may be received in evidence at the hearing.

(3) The court shall mail the investigator's report to counsel and to any party not represented by counsel at least ten days prior to the hearing unless a shorter time is ordered by the court for good cause shown. The investigator shall make available to counsel and to any party not represented by counsel the investigator's file of underlying data and reports, complete texts of diagnostic reports made to the investigator pursuant to the provisions of subsection (2) of this section, and the names and addresses of all persons whom the investigator has consulted. Any party to the proceeding may call the investigator and any person whom he has consulted for cross-examination. A party may not waive the right of cross-examination prior to the hearing. [1989 c 375 § 12; 1987 c 460 § 16; 1973 1st ex.s. c 157 § 22.]

Authority to make reports to assist courts of other states: RCW 26.27.200.

26.09.225 Access to child's education and health care records. (1) Each parent shall have full and equal access to the education and health care records of the child absent a court order to the contrary. Neither parent may veto the access requested by the other parent.

(2) Educational records are limited to academic, attendance, and disciplinary records of public and private schools in all grades kindergarten through twelve and any form of alternative school for all periods for which child support is paid or the child is the dependent in fact of the parent requesting access to the records.

(3) Educational records of postsecondary educational institutions are limited to enrollment and academic records necessary to determine, establish, or continue support ordered pursuant to RCW 26.19.090. [1991 sp.s. c 28 § 3; 1990 1st ex.s. c 2 § 18; 1987 c 460 § 17.]

Severability—Effective date—Captions not law—1991 sp.s. c 28: See notes following RCW 26.09.100.

Effective dates—Severability—1990 1st ex.s. c 2: See notes following RCW 26.09.100.

26.09.240 Visitation rights—Person other than parent. The court may order visitation rights for a person other than a parent when visitation may serve the best interest of the child whether or not there has been any change of circumstances.

A person other than a parent may petition the court for visitation rights at any time.

The court may modify an order granting or denying visitation rights whenever modification would serve the best interests of the child. [1989 c 375 § 13; 1987 c 460 § 18; 1977 ex.s. c 271 § 1; 1973 1st ex.s. c 157 § 24.]

26.09.255 Remedies when a child is taken, enticed, or concealed. A relative, as defined in RCW 9A.40.010, may bring civil action against any other relative if, with intent to deny access to a child by that relative of the child who has a right to physical custody of or visitation with the child or a parent with whom the child resides pursuant to a parenting plan order, the relative takes, entices, or conceals the child from that relative. The plaintiff may be awarded, in addition to any damages awarded by the court, the reasonable expenses incurred by the plaintiff in locating the child, including, but not limited to, investigative services and reasonable attorneys' fees. [1987 c 460 § 22; 1984 c 95 § 6.]

Severability—1984 c 95: See note following RCW 9A.40.060.

26.09.260 Modification of parenting plan or custody decree. (1) Except as otherwise provided in subsection (4) of this section, the court shall not modify a prior custody decree or a parenting plan unless it finds, upon the basis of facts that have arisen since the prior decree or plan or that were unknown to the court at the time of the prior decree or plan, that a substantial change has occurred in the circumstances of the child or the nonmoving party and that the modification is in the best interest of the child and is necessary to serve the best interests of the child.

(2) In applying these standards, the court shall retain the residential schedule established by the decree or parenting plan unless:

- (a) The parents agree to the modification;
- (b) The child has been integrated into the family of the petitioner with the consent of the other parent in substantial deviation from the parenting plan;
- (c) The child's present environment is detrimental to the child's physical, mental, or emotional health and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child; or
- (d) The court has found the nonmoving parent in contempt of court at least twice within three years because the parent failed to comply with the residential time provisions in the court-ordered parenting plan, or the parent has been convicted of custodial interference in the first or second degree under RCW 9A.40.060 or 9A.40.070.

(3) A conviction of custodial interference in the first or second degree under RCW 9A.40.060 or 9A.40.070 shall constitute a substantial change of circumstances for the purposes of this section.

(4) The court may order adjustments to a parenting plan upon a showing of a substantial change in circumstances of either parent or of the child, and without consideration of the factors set forth in subsection (2) of this section, if the proposed modification is only a:

- (a) Modification in the dispute resolution process; or
- (b) Minor modification in the residential schedule that:
 - (i) Does not change the residence the child is scheduled to reside in the majority of the time; and
 - (ii) Does not exceed twenty-four full days in a calendar year or five full days in a calendar month; or
 - (iii) Is based on a change of residence or an involuntary change in work schedule by a parent which makes the residential schedule in the parenting plan impractical to follow.

(5) If the court finds that a motion to modify a prior decree or parenting plan has been brought in bad faith, the court shall assess the attorney's fees and court costs of the nonmoving parent against the moving party. [1991 c 367 § 9. Prior: 1989 c 375 § 14; 1989 c 318 § 3; 1987 c 460 § 19; 1973 1st ex.s. c 157 § 26.]

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.

Severability—1989 c 318: See note following RCW 26.09.160.

26.09.270 Child custody—Temporary custody order, temporary parenting plan, or modification of custody decree—Affidavits required. A party seeking a temporary custody order or a temporary parenting plan or modification of a custody decree or parenting plan shall submit together with his motion, an affidavit setting forth facts supporting the requested order or modification and shall give notice, together with a copy of his affidavit, to other parties to the proceedings, who may file opposing affidavits. The court shall deny the motion unless it finds that adequate cause for hearing the motion is established by the affidavits, in which case it shall set a date for hearing on an order to show cause why the requested order or modification should not be granted. [1989 c 375 § 15; 1973 1st ex.s. c 157 § 27.]

26.09.280 Parenting plan or child support modification or enforcement—Venue. Every action or proceeding to change, modify, or enforce any final order, judgment, or decree entered in any dissolution or legal separation or declaration concerning the validity of a marriage, whether under this chapter or prior law, regarding the parenting plan or child support for the minor children of the marriage may be brought in the county where the minor children are then residing, or in the court in which the final order, judgment, or decree was entered, or in the county where the parent or other person who has the care, custody, or control of the children is then residing. [1991 c 367 § 10; 1987 c 460 § 20; 1975 c 32 § 4; 1973 1st ex.s. c 157 § 28.]

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.

26.09.285 Designation of custody for the purpose of other state and federal statutes. Solely for the purposes of all other state and federal statutes which require a designation or determination of custody, a parenting plan shall designate the parent with whom the child is scheduled to reside a majority of the time as the custodian of the child. However, this designation shall not affect either parent's rights and responsibilities under the parenting plan. In the absence of such a designation, the parent with whom the child is scheduled to reside the majority of the time shall be deemed to be the custodian of the child for the purposes of such federal and state statutes. [1989 c 375 § 16; 1987 c 460 § 21.]

26.09.290 Final decree of divorce nunc pro tunc. Whenever either of the parties in a divorce action is, under the law, entitled to a final judgment, but by mistake, negligence, or inadvertence the same has not been signed, filed, or entered, if no appeal has been taken from the interlocutory order or motion for a new trial made, the court, on the motion of either party thereto or upon its own motion, may cause a final judgment to be signed, dated, filed, and entered therein granting the divorce as of the date when the same could have been given or made by the court if applied for. The court may cause such final judgment to be signed, dated, filed, and entered nunc pro tunc as aforesaid, even though a final judgment may have been previously entered where by mistake, negligence or inadvertence the same has not been signed, filed, or entered as soon as such final judgment, the parties to such action shall be deemed to have been restored to the status of single persons as of the date affixed to such judgment, and any marriage of either of such parties subsequent to six months after the granting of the interlocutory order as shown by the minutes of the court, and after the final judgment could have been entered under the law if applied for, shall be valid for all purposes as of the date affixed to such final judgment, upon the filing thereof. [1973 1st ex.s. c 157 § 29.]

26.09.300 Restraining orders—Notice—Refusal to comply—Arrest—Penalty—Defense—Peace officers, immunity. (1) Whenever a restraining order is issued under this chapter, and the person to be restrained knows of the order, a violation of the provisions restricting the person from acts or threats of violence or of a provision excluding the person from the residence is a misdemeanor.

(2) A person is deemed to have notice of a restraining order if:

(a) The person to be restrained or the person's attorney signed the order;

(b) The order recites that the person to be restrained or the person's attorney appeared in person before the court;

(c) The order was served upon the person to be restrained; or

(d) The peace officer gives the person oral or written evidence of the order by reading from it or handing to the person a certified copy of the original order, certified to be

an accurate copy of the original by a notary public or by the clerk of the court.

(3) A peace officer shall verify the existence of a restraining order by:

(a) Obtaining information confirming the existence and terms of the order from a law enforcement agency; or

(b) Obtaining a certified copy of the order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

(4) A peace officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) A restraining order has been issued under this chapter;

(b) The respondent or person to be restrained knows of the order; and

(c) The person to be arrested has violated the terms of the order restraining the person from acts or threats of violence or excluding the person from the residence.

(5) It is a defense to prosecution under subsection (1) of this section that the court order was issued contrary to law or court rule.

(6) No peace officer may be held criminally or civilly liable for making an arrest under subsection (4) of this section if the officer acts in good faith and without malice. [1984 c 263 § 28; 1974 ex.s. c 99 § 1.]

Effective date—Severability—1984 c 263: See RCW 26.50.901 and 26.50.902.

26.09.310 Provision of health care to minor—Immunity of health care provider. No health care provider or facility, or their agent, shall be liable for damages in any civil action brought by a parent or guardian based only on a lack of the parent or guardian's consent for medical care of a minor child, if consent to the care has been given by a parent or guardian of the minor. The immunity provided by this section shall apply regardless of whether:

(1) The parents are married, unmarried, or separated at the time of consent or treatment;

(2) The consenting parent is, or is not, a custodial parent of the minor;

(3) The giving of consent by a parent is, or is not, full performance of any agreement between the parents, or of any order or decree in any action entered pursuant to chapter 26.09 RCW;

(4) The action or suit is brought by or on behalf of the nonconsenting parent, the minor child, or any other person. [1989 c 377 § 1.]

26.09.900 Construction—Pending divorce actions. Notwithstanding the repeals of prior laws enumerated in section 30, chapter 157, Laws of 1973 1st ex. sess., actions for divorce which were properly and validly pending in the superior courts of this state as of the effective date of such repealer (July 15, 1973) shall be governed and may be pursued to conclusion under the provisions of law applicable thereto at the time of commencement of such action and all decrees and orders heretofore or hereafter in all other respects regularly entered in such proceedings are declared valid: PROVIDED, That upon proper cause being shown at

any time before final decree, the court may convert such action to an action for dissolution of marriage as provided for in RCW 26.09.901. [1974 ex.s. c 15 § 1.]

26.09.901 Conversion of pending action to dissolution proceeding. Any divorce action which was filed prior to July 15, 1973 and for which a final decree has not been entered on February 11, 1974, may, upon order of the superior court having jurisdiction over such proceeding for good cause shown, be converted to a dissolution proceeding and thereafter be continued under the provisions of this chapter. [1974 ex.s. c 15 § 2.]

26.09.902 RCW 26.09.900 and 26.09.901 deemed in effect on July 16, 1973. The provisions of RCW 26.09.900 and 26.09.901 are remedial and procedural and shall be construed to have been in effect as of July 16, 1973. [1974 ex.s. c 15 § 3.]

26.09.905 Construction of chapter with uniform child custody jurisdiction act (chapter 26.27 RCW). See RCW 26.27.900.

26.09.907 Construction—Pending actions as of January 1, 1988. Notwithstanding the repeals of prior laws, actions which were properly and validly pending in the superior courts of this state as of January 1, 1988, shall not be governed by chapter 460, Laws of 1987 but shall be governed by the provisions of law in effect on December 31, 1987. [1989 c 375 § 17; 1987 c 460 § 23.]

26.09.909 Decrees entered into prior to January 1, 1988. (1) Decrees under this chapter involving child custody, visitation, or child support entered in actions commenced prior to January 1, 1988, shall be deemed to be parenting plans for purposes of this chapter.

(2) The enactment of the 1987 revisions to this chapter does not constitute substantially changed circumstances for the purposes of modifying decrees entered under this chapter in actions commenced prior to January 1, 1988, involving child custody, visitation, or child support. Any action to modify any decree involving child custody, visitation, child support, or a parenting plan shall be governed by the provisions of this chapter.

(3) Actions brought for clarification or interpretation of decrees entered under this chapter in actions commenced prior to January 1, 1988, shall be determined under the law in effect immediately prior to January 1, 1988. [1990 1st ex.s. c 2 § 16; 1989 c 375 § 18; 1987 c 460 § 24.]

Effective dates—Severability—1990 1st ex.s. c 2: See notes following RCW 26.09.100.

26.09.910 Short title—1987 c 460. This act shall be known as the parenting act of 1987. [1987 c 460 § 57.]

26.09.911 Section captions—1987 c 460. Section captions as used in this act do not constitute any part of the law. [1987 c 460 § 58.]

26.09.912 Effective date—1987 c 460. This act shall take effect on January 1, 1988. [1987 c 460 § 59.]

26.09.913 Severability—1987 c 460. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of this act or the application of the provision to other persons or circumstances is not affected. [1987 c 460 § 60.]

26.09.914 Severability—1989 c 375. 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. [1989 c 375 § 33.]

Chapter 26.10

NONPARENTAL ACTIONS FOR CHILD CUSTODY

Sections

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- 26.10.911 Section captions—1987 c 460.
- 26.10.912 Effective date—1987 c 460.
- 26.10.913 Severability—1987 c 460.

Child support registry: Chapter 26.23 RCW.

26.10.010 Intent. It is the intent of the legislature to reenact and continue the law relating to third-party actions involving custody of minor children in order to distinguish that body of law from the *1987 parenting act amendments

to chapter 26.09 RCW, which previously contained these provisions. [1987 c 460 § 25.]

***Reviser's note:** For codification of the 1987 parenting act, 1987 c 460, see Codification Tables, Volume 0.

26.10.015 Mandatory use of approved forms. (1) Effective January 1, 1992, a party shall not file any pleading with the clerk of the court in an action commenced under this chapter unless on forms approved by the administrator for the courts.

(2) The parties shall comply with requirements for submission to the court of forms as provided in RCW 26.18.220. [1992 c 229 § 4; 1990 1st ex.s. c 2 § 27.]

Effective dates—Severability—1990 1st ex.s. c 2: See notes following RCW 26.09.100.

26.10.020 Civil practice to govern—Designation of proceedings—Decrees. (1) Except as otherwise specifically provided in this chapter, the practice in civil action shall govern all proceedings under this chapter, except that trial by jury is dispensed with.

(2) In cases where a party other than a parent seeks custody of a minor child, a separate custody proceeding shall be entitled "In re the custody of"

(3) The initial pleading in all proceedings under this chapter shall be denominated a petition. A responsive pleading shall be denominated a response. Other pleadings, and all pleadings in other matters under this chapter shall be denominated as provided in the civil rules for superior court. [1987 c 460 § 26.]

26.10.030 Child custody proceeding—Commencement—Notice—Intervention. (1) Except as authorized for proceedings brought under chapter 26.50 RCW in district or municipal courts, a child custody proceeding is commenced in the superior court by a person other than a parent, by filing a petition seeking custody of the child in the county where the child is permanently resident or where the child is found, but only if the child is not in the physical custody of one of its parents or if the petitioner alleges that neither parent is a suitable custodian.

(2) Notice of a child custody proceeding shall be given to the child's parent, guardian and custodian, who may appear and be heard and may file a responsive pleading. The court may, upon a showing of good cause, permit the intervention of other interested parties. [1987 c 460 § 27.]

26.10.040 Provisions for child support, custody, and visitation—Federal tax exemption—Continuing restraining orders. In entering an order under this chapter, the court shall consider, approve, or make provision for:

(1) Child custody, visitation, and the support of any child entitled to support;

(2) The allocation of the children as a federal tax exemption; and

(3) Any necessary continuing restraining orders. [1989 c 375 § 31; 1987 c 460 § 28.]

Severability—1989 c 375: See RCW 26.09.914.

26.10.045 Child support schedule. A determination of child support shall be based upon the child support

schedule and standards adopted under *RCW 26.19.040. [1988 c 275 § 12.]

***Reviser's note:** RCW 26.19.040 was repealed by 1991 sp.s. c 28 § 8, effective September 1, 1991.

Effective dates—Severability—1988 c 275: See notes following RCW 26.19.001.

26.10.050 Child support by parents—Apportionment of expense. In a custody proceeding, the court may order either or both parents owing a duty of support to any child of the marriage dependent upon either or both spouses to pay an amount reasonable or necessary for the child's support. [1987 c 460 § 29.]

26.10.060 Health insurance coverage—Conditions. In entering or modifying a custody order under this chapter, the court shall require either or both parents to maintain or provide health insurance coverage for any dependent child if the following conditions are met:

(1) Health insurance that can be extended to cover the child is available to that parent through an employer or other organization; and

(2) The employer or other organization offering health insurance will contribute all or a part of the premium for coverage of the child.

A parent who is required to extend insurance coverage to a child under this section is liable for any covered health care costs for which the parent receives direct payment from an insurer.

This section shall not be construed to limit the authority of the court to enter or modify support orders containing provisions for payment of medical expenses, medical costs, or insurance premiums which are in addition to and not inconsistent with this section. "Health insurance" as used in this section does not include medical assistance provided under chapter 74.09 RCW. [1989 c 375 § 19; 1987 c 460 § 30.]

Severability—1989 c 375: See RCW 26.09.914.

26.10.070 Minor or dependent child—Court appointed attorney to represent—Payment of costs, fees, and disbursements. The court may appoint an attorney to represent the interests of a minor or dependent child with respect to custody, support, and visitation. The court shall enter an order for costs, fees, and disbursements in favor of the child's attorney. The order shall be made against any or all parties, except that, if all parties are indigent, the costs, fees, and disbursements shall be borne by the county. [1989 c 375 § 20; 1987 c 460 § 31.]

Severability—1989 c 375: See RCW 26.09.914.

26.10.080 Payment of costs, attorney's fees, etc. The court from time to time, after considering the financial resources of all parties, may order a party to pay a reasonable amount for the cost to the other party of maintaining or defending any proceeding under this chapter and for reasonable attorney's fees or other professional fees in connection therewith, including sums for legal services rendered and costs incurred prior to the commencement of the proceeding or enforcement or modification proceedings after entry of judgment.

Upon any appeal, the appellate court may, in its discretion, order a party to pay for the cost to the other party of maintaining the appeal and attorney's fees in addition to statutory costs.

The court may order that the attorney's fees be paid directly to the attorney who may enforce the order in his or her name. [1987 c 460 § 35.]

26.10.090 Failure to comply with decree or temporary injunction—Obligation to make support payments or permit visitation not suspended—Motion. If a party fails to comply with a provision of an order or temporary order of injunction, the obligation of the other party to make payments for support or to permit visitation is not suspended, but the party may move the court to grant an appropriate order. [1987 c 460 § 36.]

26.10.100 Determination of custody—Child's best interests. The court shall determine custody in accordance with the best interests of the child. [1987 c 460 § 38.]

26.10.110 Temporary custody order—Vacation of order. A party to a custody proceeding may move for a temporary custody order. The motion must be supported by an affidavit as provided in RCW 26.10.200. The court may award temporary custody after a hearing, or, if there is no objection, solely on the basis of the affidavits.

If a custody proceeding commenced under this chapter is dismissed, any temporary order is vacated. [1987 c 460 § 39.]

26.10.115 Temporary orders—Support—Restraining orders—Preservation of support debt. (1) In a proceeding under this chapter either party may file a motion for temporary support of children entitled to support. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amount requested.

(2) In a proceeding under this chapter either party may file a motion for a temporary restraining order or preliminary injunction, providing relief proper in the circumstances, and restraining or enjoining any person from:

(a) Molesting or disturbing the peace of the other party or of any child and, upon a showing by clear and convincing evidence that the party so restrained or enjoined has used or displayed or threatened to use a deadly weapon as defined in RCW 9A.04.110 in an act of violence or has previously committed acts of domestic violence and is likely to use or display or threaten to use a deadly weapon in an act of domestic violence, requiring the party to surrender any deadly weapon in his immediate possession or control or subject to his immediate possession or control to the sheriff of the county having jurisdiction of the proceeding or to the restrained or enjoined party's counsel or to any person designated by the court. The court may order temporary surrender of deadly weapons without notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for response has elapsed;

(b) Entering the family home or the home of the other party upon a showing of the necessity therefor;

(c) Removing a child from the jurisdiction of the court.

(3) The court may issue a temporary restraining order without requiring notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for responding has elapsed.

(4) The court may issue a temporary restraining order or preliminary injunction and an order for temporary support in such amounts and on such terms as are just and proper in the circumstances.

(5) Restraining orders issued under this section restraining the person from molesting or disturbing another party or from entering a party's home shall bear the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.10 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

(6) The court may order that any temporary restraining order granted under this section be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall forthwith enter the order for one year into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state.

(7) A temporary order, temporary restraining order, or preliminary injunction:

(a) Does not prejudice the rights of a party or any child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified;

(c) Terminates when the final order is entered or when the motion is dismissed;

(d) May be entered in a proceeding for the modification of an existing order.

(8) A support debt owed to the state for public assistance expenditures which has been charged against a party pursuant to RCW 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise extinguished by, the final decree or order, unless the office of support enforcement has been given notice of the final proceeding and an opportunity to present its claim for the support debt to the court and has failed to file an affidavit as provided in this subsection. Notice of the proceeding shall be served upon the office of support enforcement personally, or by certified mail, and shall be given no fewer than thirty days prior to the date of the final proceeding. An original copy of the notice shall be filed with the court either before service or within a reasonable time thereafter. The office of support enforcement may present its claim, and thereby preserve the support debt, by filing an affidavit setting forth the amount of the debt with the court, and by mailing a copy of the affidavit to the parties or their attorney prior to the date of the final proceeding. [1989 c 375 § 32.]

Severability—1989 c 375: See RCW 26.09.914.

26.10.120 Interview with child by court—Advice of professional personnel. The court may interview the child in chambers to ascertain the child's wishes as to his or her custodian and as to visitation privileges. The court may permit counsel to be present at the interview. The court shall cause a record of the interview to be made and to be made part of the record in the case.

The court may seek the advice of professional personnel whether or not they are employed on a regular basis by the court. The advice given shall be in writing and shall be made available by the court to counsel upon request. Counsel may call for cross-examination any professional personnel consulted by the court. [1987 c 460 § 40.]

26.10.130 Investigation and report. (1) In contested custody proceedings, and in other custody proceedings if a parent or the child's custodian so requests, the court may order an investigation and report concerning custodian arrangements for the child. The investigation and report may be made by the staff of the juvenile court or other professional social service organization experienced in counseling children and families.

(2) In preparing the report concerning a child, the investigator may consult any person who may have information about the child and potential custodian arrangements. Upon order of the court, the investigator may refer the child to professional personnel for diagnosis. The investigator may consult with and obtain information from medical, psychiatric, or other expert persons who have served the child in the past without obtaining the consent of the parent or the child's custodian; but the child's consent must be obtained if the child has reached the age of twelve, unless the court finds that the child lacks mental capacity to consent. If the requirements of subsection (3) of this section are fulfilled, the investigator's report may be received in evidence at the hearing.

(3) The court shall mail the investigator's report to counsel and to any party not represented by counsel at least ten days prior to the hearing unless a shorter time is ordered by the court for good cause shown. The investigator shall make available to counsel and to any party not represented by counsel the investigator's file of underlying data and reports, complete texts of diagnostic reports made to the investigator pursuant to the provisions of subsection (2) of this section, and the names and addresses of all persons whom the investigator has consulted. Any party to the proceeding may call the investigator and any person whom he has consulted for cross-examination. A party may not waive the right of cross-examination prior to the hearing. [1987 c 460 § 41.]

26.10.140 Hearing—Record—Expenses of witnesses. Custody proceedings shall receive priority in being set for hearing.

A party may petition the court to authorize the payment of necessary travel and other expenses incurred by any witness whose presence at the hearing the court deems necessary to determine the best interests of the child.

The court without a jury shall determine questions of law and fact. If it finds that a public hearing may be detrimental to the child's best interests, the court may

exclude the public from a custody hearing, but may admit any person who has a direct and legitimate interest in the work of the court.

If the court finds it necessary to protect the child's welfare that the record of any interview, report, investigation, or testimony in a custody proceeding be kept secret, the court may make an appropriate order sealing the record. [1987 c 460 § 42.]

26.10.150 Access to child's education and medical records. Each parent shall have full and equal access to the education and medical records of the child absent a court order to the contrary. [1987 c 460 § 43.]

26.10.160 Visitation rights—Limitations. (1) A parent not granted custody of the child is entitled to reasonable visitation rights except as provided in subsection (2) of this section.

(2)(a) Visitation with the child shall be limited if it is found that the parent seeking visitation has engaged in any of the following conduct: (i) Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions; (ii) physical, sexual, or a pattern of emotional abuse of a child; or (iii) a history of acts of domestic violence as defined in RCW 26.50.010(1) or an assault or sexual assault which causes grievous bodily harm or the fear of such harm.

(b) The limitations imposed by the court shall be reasonably calculated to protect the child from the physical, sexual, or emotional abuse or harm that could result if the child has contact with the parent requesting visitation. If the court expressly finds limitations on visitation with the child will not adequately protect the child from the harm or abuse that could result if the child has contact with the parent requesting visitation, the court shall restrain the person seeking visitation from all contact with the child.

(c) If the court expressly finds that contact between the parent and the child will not cause physical, sexual, or emotional abuse or harm to the child and that the probability that the parent's harmful or abusive conduct will recur is so remote that it would not be in the child's best interests to apply the limitations of (a) and (b) of this subsection, or if the court expressly finds the parent's conduct did not have an impact on the child, then the court need not apply the limitations of (a) and (b) of this subsection. The weight given to the existence of a protection order issued under chapter 26.50 RCW as to domestic violence is within the discretion of the court.

(3) Any person may petition the court for visitation rights at any time including, but not limited to, custody proceedings. The court may order visitation rights for any person when visitation may serve the best interest of the child whether or not there has been any change of circumstances.

(4) The court may modify an order granting or denying visitation rights whenever modification would serve the best interests of the child. Modification of a parent's visitation rights shall be subject to the requirements of subsection (2) of this section. [1989 c 326 § 2; 1987 c 460 § 44.]

26.10.170 Powers and duties of custodian—Supervision by appropriate agency when necessary. Except as otherwise agreed by the parties in writing at the time of the custody decree, the custodian may determine the child's upbringing, including education, health care, and religious training, unless the court after hearing, finds, upon motion by the noncustodial parent, that in the absence of a specific limitation of the custodian's authority, the child's physical, mental, or emotional health would be endangered.

If both parents or all contestants agree to the order, or if the court finds that in the absence of the order the child's physical, mental, or emotional health would be endangered, the court may order an appropriate agency which regularly deals with children to exercise continuing supervision over the case to assure that the custodial or visitation terms of the decree are carried out. Such order may be modified by the court at any time upon petition by either party. [1987 c 460 § 45.]

26.10.180 Remedies when a child is taken, enticed, or concealed. A relative, as defined in RCW 9A.40.010, may bring civil action against any other relative who, with intent to deny access to a child by another relative of the child who has a right to physical custody of or visitation with the child, takes, entices, or conceals the child from that relative. The plaintiff may be awarded, in addition to any damages awarded by the court, the reasonable expenses incurred by the plaintiff in locating the child, including, but not limited to, investigative services and reasonable attorneys' fees. [1989 c 375 § 21; 1987 c 460 § 46.]

Severability—1989 c 375: See RCW 26.09.914.

26.10.190 Child custody decree—Modification. (1) The court shall not modify a prior custody decree unless it finds, upon the basis of facts that have arisen since the prior decree or that were unknown to the court at the time of the prior decree, that a change has occurred in the circumstances of the child or the custodian and that the modification is necessary to serve the best interests of the child. In applying these standards, the court shall retain the custodian established by the prior decree unless:

- (a) The custodian agrees to the modification;
- (b) The child has been integrated into the family of the petitioner with the consent of the custodian; or
- (c) The child's present environment is detrimental to his or her physical, mental, or emotional health and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child.

(2) If the court finds that a motion to modify a prior custody decree has been brought in bad faith, the court shall assess the attorney's fees and court costs of the custodian against the petitioner. [1989 c 375 § 24; 1987 c 460 § 47.]

Severability—1989 c 375: See RCW 26.09.914.

26.10.195 Modification of child support order—Child support order summary report. The party seeking the establishment or modification of a child support order shall file with the clerk of the court the child support order summary report. The summary report shall be on the form developed by the administrator for the courts pursuant to RCW 26.18.210. The party must complete the form and file

the form with the court order. The clerk of the court must forward the form to the administrator for the courts on at least a monthly basis. [1990 1st ex.s. c 2 § 24.]

Effective dates—Severability—1990 1st ex.s. c 2: See notes following RCW 26.09.100.

26.10.200 Temporary custody order or modification of custody decree—Affidavits required. A party seeking a temporary custody order or modification of a custody decree shall submit together with his or her motion, an affidavit setting forth facts supporting the requested order or modification and shall give notice, together with a copy of the affidavit, to other parties to the proceedings, who may file opposing affidavits. The court shall deny the motion unless it finds that adequate cause for hearing the motion is established by the affidavits, in which case it shall set a date for hearing on an order to show cause why the requested order or modification should not be granted. [1987 c 460 § 48.]

26.10.210 Venue. Every action or proceeding to change, modify, or enforce any final order, judgment, or decree heretofore or hereafter entered, whether under this chapter or prior law, in relation to the care, custody, control, or support of the minor children may be brought in the county where the minor children are then residing, or in the court in which the final order, judgment, or decree was entered, or in the county where the parent or other person who has the care, custody, or control of the children is then residing. [1987 c 460 § 49.]

26.10.220 Restraining orders—Notice—Refusal to comply—Arrest—Penalty—Defense—Peace officers, immunity. (1) Whenever a restraining order is issued under this chapter, and the person to be restrained knows of the order, a violation of the provisions restricting the person from acts or threats of violence or of a provision excluding the person from the residence is a misdemeanor.

(2) A person is deemed to have notice of a restraining order if:

- (a) The person to be restrained or the person's attorney signed the order;
- (b) The order recites that the person to be restrained or the person's attorney appeared in person before the court;
- (c) The order was served upon the person to be restrained; or
- (d) The peace officer gives the person oral or written evidence of the order by reading from it or handing to the person a certified copy of the original order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

(3) A peace officer shall verify the existence of a restraining order by:

- (a) Obtaining information confirming the existence and terms of the order from a law enforcement agency; or
- (b) Obtaining a certified copy of the order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

(4) A peace officer shall arrest and take into custody, pending release on bail, personal recognizance, or court

order, a person without a warrant when the officer has probable cause to believe that:

(a) A restraining order has been issued under this chapter;

(b) The respondent or person to be restrained knows of the order; and

(c) The person to be arrested has violated the terms of the order restraining the person from acts or threats of violence or excluding the person from the residence.

(5) It is a defense to prosecution under subsection (1) of this section that the court order was issued contrary to law or court rule.

(6) No peace officer may be held criminally or civilly liable for making an arrest under subsection (4) of this section if the officer acts in good faith and without malice. [1987 c 460 § 50.]

26.10.910 Short title—1987 c 460. See RCW 26.09.910.

26.10.911 Section captions—1987 c 460. See RCW 26.09.911.

26.10.912 Effective date—1987 c 460. See RCW 26.09.912.

26.10.913 Severability—1987 c 460. See RCW 26.09.913.

Chapter 26.12 FAMILY COURT

Sections

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- 26.12.020 Designation of judge—Number of sessions.
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- 26.12.205 Priority for proceedings involving children.
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- 26.12.230 Joint family court services.

Dissolution of marriage, legal separation, declarations concerning validity of marriage: Chapter 26.09 RCW.

Domestic violence prevention: Chapter 26.50 RCW.

Nonparental actions for child custody: Chapter 26.10 RCW.

26.12.010 Jurisdiction conferred on superior court—Family law proceeding defined. Each superior court shall exercise the jurisdiction conferred by this chapter

and while sitting in the exercise of such jurisdiction shall be known and referred to as the "family court." A family law proceeding under this chapter is any proceeding under this title or any proceeding in which the family court is requested to adjudicate or enforce the rights of the parties or their children regarding the determination or modification of parenting plans, child custody, visitation, or support, or the distribution of property or obligations. [1991 c 367 § 11; 1983 c 219 § 1; 1949 c 50 § 1; Rem. Supp. 1949 § 997-30.]

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.

26.12.020 Designation of judge—Number of sessions. In counties having more than one judge of the superior court the judges of such court shall annually, in the month of January, designate one or more of their number to hear all cases under this chapter. The judge or judges so designated shall hold as many sessions of the family court in each week as are necessary for the prompt disposition of matters before the court. [1949 c 50 § 2; Rem. Supp. 1949 § 997-31.]

26.12.030 Transfer of cases to presiding judge. The judge of the family court may transfer any case before the family court pursuant to this chapter to the department of the presiding judge of the superior court for assignment for trial or other proceedings by another judge of the court, whenever in the opinion of the judge of the family court such transfer is necessary to expedite the business of the family court or to insure the prompt consideration of the case. When any case is so transferred, the judge to whom it is transferred shall act as the judge of the family court in the matter. [1949 c 50 § 3; Rem. Supp. 1949 § 997-32.]

26.12.040 Substitute judge of family court. In counties having more than one judge of the superior court the presiding judge may appoint a judge other than the judge of the family court to act as judge of the family court during any period when the judge of the family court is on vacation, absent, or for any reason unable to perform his duties. Any judge so appointed shall have all the powers and authority of a judge of the family court in cases under this chapter. [1949 c 50 § 4; Rem. Supp. 1949 § 997-33.]

26.12.050 Family courts—Appointment of assistants in counties with populations of less than one million. (1) Except as provided in subsection (2) of this section, in each county with a population of less than one million, the superior court may appoint the following persons to assist the family court in disposing of its business:

(a) One or more attorneys to act as family court commissioners, and

(b) Such investigators, stenographers and clerks as the court shall find necessary to carry on the work of the family court.

(2) The county legislative authority must approve the creation of family court commissioner positions.

(3) The appointments provided for in this section shall be made by majority vote of the judges of the superior court of the county and may be made in addition to all other appointments of commissioners and other judicial attaches

otherwise authorized by law. Family court commissioners and investigators shall serve at the pleasure of the judges appointing them and shall receive such compensation as the county legislative authority shall determine. The appointments may be full or part-time positions. A person appointed as a family court commissioner may also be appointed to any other commissioner position authorized by law. [1991 c 363 § 17; 1989 c 199 § 1; 1965 ex.s. c 83 § 1; 1949 c 50 § 5; Rem. Supp. 1949 § 997-34.]

~~Purpose—Captions not law—1991 c 363:~~ See notes following RCW 2.32.180.

Court

clerks, reporters, and bailiffs: Chapter 2.32 RCW.
commissioners and referees: Chapter 2.24 RCW.

26.12.060 Court commissioners—Duties. The court commissioners shall: (1) Make appropriate referrals to county family court services program if the county has a family court services program; (2) order investigation and reporting of the facts upon which to base warrants, subpoenas, orders or directions in actions or proceedings under this chapter; (3) exercise all the powers and perform all the duties of court commissioners; (4) make written reports of all proceedings had which shall become a part of the record of the family court; (5) provide supervision over the exercise of its jurisdiction as the judge of the family court may order; (6) cause the orders and findings of the family court to be entered in the same manner as orders and findings are entered in cases in the superior court; (7) cause other reports to be made and records kept as will indicate the value and extent of reconciliation, mediation, investigation, and treatment services; and (8) conduct hearings under chapter 13.34 RCW as provided in RCW 13.04.021. [1991 c 367 § 12; 1988 c 232 § 4; 1949 c 50 § 6; Rem. Supp. 1949 § 997-35.]

~~Severability—Effective date—Captions not law—1991 c 367:~~ See notes following RCW 26.09.015.

26.12.070 Probation officers—Powers and duties. The probation officer in every county shall give such assistance to the family court as may be requested to carry out the purposes of this chapter and to that end the probation officer shall, upon request, make investigations and reports as requested, and in cases pursuant to this chapter shall exercise all the powers and perform all the duties granted or imposed by the laws of this state relating to probation or to probation officers. [1949 c 50 § 7; Rem. Supp. 1949 § 997-36.]

Indeterminate sentences: Chapter 9.95 RCW.

Probation officers—Appointment—Powers—Compensation: RCW 13.04.040.

26.12.080 Protection of privacy of parties. Whenever the court before whom any matter arising under this chapter is pending, deems publication of any matter before the court contrary to public policy or injurious to the interests of children or to the public morals, the court may by order close the files or any part thereof in the matter and make such other orders to protect the privacy of the parties as is necessary. [1989 c 375 § 22; 1949 c 50 § 8; Rem. Supp. 1949 § 997-37.]

~~Severability—1989 c 375:~~ See RCW 26.09.914.

[Title 26 RCW—page 26]

26.12.160 When and where court may be convened.

For the purpose of conducting hearings pursuant to this chapter the family court may be convened at any time and place within the county and the hearing may be had in chambers or otherwise. [1949 c 50 § 16; Rem. Supp. 1949 § 997-45.]

26.12.170 Authority of family court judges and court commissioners to order or recommend services—Report by court of child abuse or neglect. To facilitate and promote the purposes of this chapter, family court judges and court commissioners may order or recommend family court services, drug and alcohol abuse evaluations and monitoring of the parties through public or private treatment services, other treatment services, the aid of physicians, psychiatrists, other specialists, or other services or may recommend the aid of the pastor or director of any religious denomination to which the parties may belong.

If the court has reasonable cause to believe that a child of the parties has suffered abuse or neglect it may file a report with the proper law enforcement agency or the department of social and health services as provided in RCW 26.44.040. Upon receipt of such a report the law enforcement agency or the department of social and health services will conduct an investigation into the cause and extent of the abuse or neglect. The findings of the investigation may be made available to the court if ordered by the court as provided in RCW 42.17.310(3). The findings shall be restricted to the issue of abuse and neglect and shall not be considered custody investigations. [1991 c 367 § 13; 1983 c 219 § 5; 1971 ex.s. c 151 § 2; 1949 c 50 § 17; Rem. Supp. 1949 § 997-46.]

~~Severability—Effective date—Captions not law—1991 c 367:~~ See notes following RCW 26.09.015.

26.12.175 Appointment of guardian ad litem. The court may appoint a guardian ad litem to represent the interests of a minor or dependent child when the court believes the appointment of a guardian is in the best interests of the child in any proceeding under this chapter. The family court services professionals shall make a recommendation to the court regarding whether a guardian ad litem should be appointed for the child. The court shall enter an order for costs, fees, and disbursements to cover the costs of the guardian ad litem. The court may order either or both parents to pay for the costs of the guardian ad litem, according to their ability to pay. If both parents are indigent, the county shall bear the cost of the guardian, subject to appropriation for guardians' ad litem services by the county legislative authority. [1991 c 367 § 17.]

~~Severability—Effective date—Captions not law—1991 c 367:~~ See notes following RCW 26.09.015.

26.12.190 Family court jurisdiction as to pending actions—Use of family court services. (1) The family court shall have jurisdiction and full power in all pending cases to make, alter, modify, and enforce all temporary and permanent orders regarding the following: Parenting plans, child support, custody of children, visitation, possession of property, maintenance, contempt, custodial interference, and orders for attorneys' fees, suit money or costs as may appear

just and equitable. Court commissioners or judges shall not have authority to require the parties to mediate disputes concerning child support.

(2) Family court investigation, evaluation, mediation, treatment, and reconciliation services, and any other services may be used to assist the court to develop an order as the court deems necessary to preserve the marriage, implement an amicable settlement, and resolve the issues in controversy. [1991 c 367 § 14; 1983 c 219 § 7; 1949 c 50 § 19; Rem. Supp. 1949 § 997-48.]

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.

26.12.205 Priority for proceedings involving children. The family court shall give proceedings involving children priority over cases without children. [1991 c 367 § 16.]

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.

26.12.215 Revision by the superior court. All acts and proceedings of the court commissioners shall be subject to revision by the superior court as provided in RCW 2.24.050. [1991 c 367 § 18.]

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.

26.12.220 Funding family court or family court services—Increase in marriage license fee authorized—Family court services program—Fees. (1) The legislative authority of any county may authorize family court services as provided in RCW 26.12.230. The legislative authority may impose a fee in excess of that prescribed in RCW 36.18.010 for the issuance of a marriage license. The 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 the family court and the family court services 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. Family court services also may be provided jointly with other counties as provided in RCW 26.12.230.

(3) The family court services program may hire professional employees to provide the investigation, evaluation and reporting, and mediation services, or the county may contract for these services, or both. To facilitate and promote the purposes of this chapter, the court may order or recommend the aid of physicians, psychiatrists, or other specialists.

(4) The family court services program may provide or contract for: (a) Mediation; (b) investigation, evaluation, and reporting to the court; and (c) reconciliation; and may provide a referral mechanism for drug and alcohol testing, monitoring, and treatment; and any other treatment, parenting, or anger management programs the family court professional considers necessary or appropriate.

(5) Services other than family court investigation, evaluation, reconciliation, and mediation services shall be at the expense of the parties involved absent a court order to

the contrary. The parties shall bear all or a portion of the family court investigation, evaluation, reconciliation, and mediation services according to the parties' ability to pay.

(6) The county legislative authority may establish rules of eligibility for the family court services funded under this section. The rules shall not conflict with rules of the court adopted under chapter 26.12 RCW or any other statute.

(7) The legislative authority may establish fees for family court investigation, evaluation, reconciliation, and mediation services under this chapter according to the parties' ability to pay for the services. 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. [1991 c 367 § 15; 1980 c 124 § 1.]

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.

26.12.230 Joint family court services. (1) Any county may contract under chapter 39.34 RCW with any other county or counties to provide joint family court services.

(2) Any agreement between two or more counties for the operation of a joint family court service may provide that the treasurer of one participating county shall be the custodian of moneys made available for the purposes of the joint services, and that the treasurer may make payments from the moneys upon proper authorization.

(3) Any agreement between two or more counties for the operation of a joint family court service may also provide:

(a) For the joint provision or operation of services and facilities or for the provision or operation of services and facilities by one participating county under contract for the other participating counties;

(b) For appointments of members of the staff of the family court including the supervising counselor;

(c) That, for specified purposes, the members of the staff of the family court including the supervising counselor, but excluding the judges of the family court and other court personnel, shall be considered to be employees of one participating county;

(d) For other matters as are necessary to carry out the purposes of this chapter.

(4) The provisions of this chapter relating to family court services provided by a single county are equally applicable to counties which contract, under this section, to provide joint family court services. [1986 c 95 § 3.]

Chapter 26.16

HUSBAND AND WIFE—RIGHTS AND LIABILITIES—COMMUNITY PROPERTY

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- Tenancy in dower and by curtesy abolished: RCW 11.04.060.*
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26.16.010 Separate property of husband. Property and pecuniary rights owned by the husband before marriage and that acquired by him afterwards by gift, bequest, devise or descent, with the rents, issues and profits thereof, shall not be subject to the debts or contracts of his wife, and he may manage, lease, sell, convey, encumber or devise by will such property without the wife joining in such management, alienation or encumbrance, as fully and to the same effect as though he were unmarried. [Code 1881 § 2408; RRS § 6890. Prior: See Reviser's note below.]

Reviser's note: For prior laws dealing with this subject see Laws 1879 pp 77-81; 1873 pp 450-455; 1871 pp 67-74; 1869 pp 318-323.

Construction: "The rule of common law that statutes in derogation thereof are to be strictly construed has no application to this chapter. This chapter establishes the law of the state respecting the subject to which it relates, and its provisions and all proceedings under it shall be liberally construed with a view to effect its object." [Code 1881 § 2417.]

"This chapter shall not be construed to operate retrospectively and any right established, accrued or accruing or in any thing done prior to the time

this chapter goes into effect shall be governed by the law in force at the time such right was established or accrued." [Code 1881 § 2418.] This applies to RCW 26.16.010 through 26.16.040, 26.16.060, 26.16.120, 26.16.140 through 26.16.160, and 26.16.180 through 26.16.210.

Descent of separate real property: RCW 11.04.015.

Distribution of separate personal estate: RCW 11.04.015.

Rights of married persons in general: RCW 26.16.150.

26.16.020 Separate property of wife. The property and pecuniary rights of every married woman at the time of her marriage or afterwards acquired by gift, devise or inheritance, with the rents, issues and profits thereof, shall not be subject to the debts or contracts of her husband, and she may manage, lease, sell, convey, encumber or devise by will such property to the same extent and in the same manner that her husband can, property belonging to him. [Code 1881 § 2400; RRS § 6891. Prior: See Reviser's note following RCW 26.16.010.]

Reviser's note: See notes following RCW 26.16.010.

Civil disabilities of wife abolished: RCW 26.16.160.

Earnings of parent and minor children living apart: RCW 26.16.140.

Exemption of separate property of married person from attachment and execution upon liability of spouse: RCW 6.15.040.

26.16.030 Community property defined—Management and control. Property not acquired or owned, as prescribed in RCW 26.16.010 and 26.16.020, acquired after marriage by either husband or wife or both, is community property. Either spouse, acting alone, may manage and control community property, with a like power of disposition as the acting spouse has over his or her separate property, except:

(1) Neither spouse shall devise or bequeath by will more than one-half of the community property.

(2) Neither spouse shall give community property without the express or implied consent of the other.

(3) Neither spouse shall sell, convey, or encumber the community real property without the other spouse joining in the execution of the deed or other instrument by which the real estate is sold, conveyed, or encumbered, and such deed or other instrument must be acknowledged by both spouses.

(4) Neither spouse shall purchase or contract to purchase community real property without the other spouse joining in the transaction of purchase or in the execution of the contract to purchase.

(5) Neither spouse shall create a security interest other than a purchase money security interest as defined in RCW 62A.9-107 in, or sell, community household goods, furnishings, or appliances, or a community mobile home unless the other spouse joins in executing the security agreement or bill of sale, if any.

(6) Neither spouse shall acquire, purchase, sell, convey, or encumber the assets, including real estate, or the good will of a business where both spouses participate in its management without the consent of the other: **PROVIDED,** That where only one spouse participates in such management the participating spouse may, in the ordinary course of such business, acquire, purchase, sell, convey or encumber the assets, including real estate, or the good will of the business without the consent of the nonparticipating spouse. [1981 c 304 § 1; 1972 ex.s. c 108 § 3; Code 1881 § 2409; RRS § 6892.]

Severability—1981 c 304: "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." [1981 c 304 § 46.]

Community property—Homestead selection: RCW 6.13.020.

Descent and distribution of community property: RCW 11.04.015.

Quasi-community property defined: RCW 26.16.220.

Simultaneous death, uniform act: Chapter 11.05 RCW.

26.16.040 Community realty subject to liens, execution. Community real estate shall be subject to the liens of mechanics and others for labor and materials furnished in erecting structures and improvements thereon as provided by law in other cases, to liens of judgments recovered for community debts, and to sale on execution issued thereon. [1972 ex.s. c 108 § 4; Code 1881 § 2410; RRS § 6893.]

Acknowledgments: Chapter 64.08 RCW.

Liens: Title 60 RCW.

26.16.050 Conveyances between husband and wife. A husband may give, grant, sell or convey directly to his wife, and a wife may give, grant, sell or convey directly to her husband his or her community right, title, interest or estate in all or any portion of their community real property: And every deed made from husband to wife, or from wife to husband, shall operate to divest the real estate therein recited from any or every claim or demand as community property and shall vest the same in the grantee as separate property[. The] grantor in all such deeds, or the party releasing such community interest or estate shall sign, seal, execute and acknowledge the deed as a single person without the joinder therein of the married party therein named as grantee: PROVIDED, HOWEVER, That the conveyances or transfers hereby authorized shall not affect any existing equity in favor of creditors of the grantor at the time of such transfer, gift or conveyance. AND PROVIDED FURTHER, That any deeds of gift conveyances or releases of community estate by or between husband and wife heretofore made but in which the husband and wife have not joined as grantors, said deeds[,] where made in good faith and without intent to hinder, delay or defraud creditors[,] shall be and the same are hereby fully legalized as valid and binding. [1888 c 27 § 1; RRS § 10572.]

Validating—1888 c 27: "All powers of attorney heretofore made and executed by any married woman joined with her husband and duly acknowledged and certified and all powers of attorney heretofore made or executed by husband or wife to the other, authorizing the sale or other disposition of real estate, whether separate or community real estate duly acknowledged conformably with the previous sections, and all conveyances heretofore and hereafter executed under and by virtue of such powers of attorney and acknowledged and certified in the manner provided herein, shall be valid and binding; provided, that any rights vested in third persons shall not be affected by anything in this section contained." [1888 c 27 § 5.] This applies to RCW 26.16.050, 26.16.070 through 26.16.090.

Acknowledgments: Chapter 64.08 RCW.

Burden of proof in transactions between husband and wife: RCW 26.16.210.

26.16.060 Power of attorney between husband and wife. A husband or wife may constitute the other his or her attorney in fact to manage, control or dispose of his or her property with the same power of revocation or substitution

as could be exercised were they unmarried persons. [Code 1881 § 2403; No RRS.]

26.16.070 Powers of attorney as to separate estate. A husband or wife may make and execute powers of attorney for the sale, conveyance, transfer or encumbrance of his or her separate estate both real and personal, without the other spouse joining in the execution thereof. Such power of attorney shall be acknowledged and certified in the manner provided by law for the conveyance of real estate. Nor shall anything herein contained be so construed as to prevent either husband or wife from appointing the other his or her attorney in fact for the purposes provided in this section. [1888 c 27 § 2; RRS § 10573.]

26.16.080 Execution of conveyance under power. Any conveyance, transfer, deed, lease or other encumbrances executed under and by virtue of such power of attorney shall be executed, acknowledged and certified in the same manner as if the person making such power of attorney had been unmarried. [1888 c 27 § 3; RRS § 10574.]

26.16.090 Powers of attorney as to community estate. A husband may make and execute a letter of attorney to the wife, or the wife may make and execute a letter of attorney to the husband authorizing the sale or other disposition of his or her community interest or estate in the community property and as such attorney in fact to sign the name of such husband or wife to any deed, conveyance, mortgage, lease or other encumbrance or to any instrument necessary to be executed by which the property conveyed or transferred shall be released from any claim as community property. And either said husband or said wife may make and execute a letter of attorney to any third person to join with the other in the conveyance of any interest either in separate real estate of either, or in the community estate held by such husband or wife in any real property. And both husband and wife owning community property may jointly execute a power of attorney to a third person authorizing the sale, encumbrance or other disposition of community real property, and so execute the necessary conveyance or transfer of said real estate. [1888 c 27 § 4; RRS § 10575.]

26.16.095 Purchaser of community real property protected by record title. Whenever any person, married or single, having in his or her name the legal title of record to any real estate, shall sell or dispose of the same to an actual bona fide purchaser, a deed of such real estate from the person holding such legal record title to such actual bona fide purchaser shall be sufficient to convey to, and vest in, such purchaser the full legal and equitable title to such real estate free and clear of any and all claims of any and all persons whatsoever, not appearing of record in the auditor's office of the county in which such real estate is situated. [1891 c 151 § 1; RRS § 10577. Formerly RCW 64.04.080.] [SLC-RO-16]

Saving—1891 c 151: "In so far as this act affects married persons having already acquired and now holding real estate under existing laws, a period of three months from the date at which this act shall take effect is hereby allowed to such persons within which to comply with its provisions." [1891 c 151 § 4.] This applies to RCW 26.16.095 through 26.16.110.

26.16.100 Claim of spouse in community realty to be filed. A husband or wife having an interest in real estate, by virtue of the marriage relation, the legal title of record to which real estate is or shall be held by the other, may protect such interest from sale or disposition by the husband or wife, as the case may be, in whose name the legal title is held, by causing to be filed and recorded in the auditor's office of the county in which such real estate is situated an instrument in writing setting forth that the person filing such instrument is the husband or wife, as the case may be, of the person holding the legal title to the real estate in question, describing such real estate and the claimant's interest therein; and when thus presented for record such instrument shall be filed and recorded by the auditor of the county in which such real estate is situated, in the same manner and with like effect as regards notice to all the world, as deeds of real estate are filed and recorded. And if either husband or wife fails to cause such an instrument to be filed in the auditor's office in the county in which real estate is situated, the legal title to which is held by the other, within a period of ninety days from the date when such legal title has been made a matter of record, any actual bona fide purchaser of such real estate from the person in whose name the legal title stands of record, receiving a deed of such real estate from the person thus holding the legal title, shall be deemed and held to have received the full legal and equitable title to such real estate free and clear of all claim of the other spouse. [1891 c 151 § 2; RRS § 10578.] [SLC-RO-16]

Recording of real property by county auditor: Chapters 65.04 and 65.08 RCW.

26.16.110 Cloud on title—Removal. The instrument in writing provided for in RCW 26.16.100 shall be deemed to be a cloud upon the title of said real estate, and may be removed by the release of the party filing the same, or by any court having jurisdiction in the county where said real estate is situated, whenever it shall appear to said court that the real estate described in said instrument is the separate property of the person in whose name the title to the said real estate, or any part thereof, appears to be vested, from the conveyances on record in the office of the auditor of the county where said real estate is situated. [1891 c 151 § 3; RRS § 10579.]

26.16.120 Agreements as to status. Nothing contained in any of the provisions of *this chapter or in any law of this state, shall prevent the husband and wife from jointly entering into any agreement concerning the status or disposition of the whole or any portion of the community property, then owned by them or afterwards to be acquired, to take effect upon the death of either. But such agreement may be made at any time by the husband and wife by the execution of an instrument in writing under their hands and seals, and to be witnessed, acknowledged and certified in the same manner as deeds to real estate are required to be, under the laws of the state, and the same may at any time thereafter be altered or amended in the same manner: PROVIDED, HOWEVER, That such agreement shall not derogate from the right of creditors, nor be construed to curtail the powers of the superior court to set aside or cancel such agreement

for fraud or under some other recognized head of equity jurisdiction, at the suit of either party. [Code 1881 § 2416; RRS § 6894.]

**Reviser's note:* "this chapter", being Code 1881, chapter CLXXXIII, is codified as RCW 26.16.010 through 26.16.040, 26.16.060, 26.16.120, 26.16.140 through 26.16.160, and 26.16.180 through 26.16.210.

Acknowledgments: Chapter 64.08 RCW.

Certain provisions of community property agreements deemed nontestamentary: RCW 11.02.090.

Descent and distribution of community property: RCW 11.04.015.

Private seals abolished: RCW 64.04.090.

26.16.125 Custody of children. Henceforth the rights and responsibilities of the parents in the absence of misconduct shall be equal, and the mother shall be as fully entitled to the custody, control and earnings of the children as the father, and in case of the father's death, the mother shall come into as full and complete control of the children and their estate as the father does in case of the mother's death. [Code 1881 § 2399; 1879 p 151 § 2; RRS § 6907. Formerly RCW 26.20.020.]

26.16.140 Earnings and accumulations of husband and wife living apart, minor children. When a husband and wife are living separate and apart, their respective earnings and accumulations shall be the separate property of each. The earnings and accumulations of minor children shall be the separate property of the spouse who has their custody or, if no custody award has been made, then the separate property of the spouse with whom said children are living. [1972 ex.s. c 108 § 5; Code 1881 § 2413; RRS § 6896.]

26.16.150 Rights of married persons in general. Every married person shall hereafter have the same right and liberty to acquire, hold, enjoy and dispose of every species of property, and to sue and be sued, as if he or she were unmarried. [Code 1881 § 2396; RRS § 6900.]

*Separate property
of husband: RCW 26.16.010.
of wife: RCW 26.16.020.*

26.16.160 Civil disabilities of wife abolished. All laws which impose or recognize civil disabilities upon a wife, which are not imposed or recognized as existing as to the husband, are hereby abolished, and for any unjust usurpation of her natural or property rights, she shall have the same right to appeal in her own individual name, to the courts of law or equity for redress and protection that the husband has: PROVIDED, ALWAYS, That nothing in *this chapter shall be construed to confer upon the wife any right to vote or hold office, except as otherwise provided by law. [Code 1881 § 2398; 1879 p 151 § 1; RRS § 6901.]

**Reviser's note:* "this chapter," see note following RCW 26.16.120.

26.16.180 Husband and wife may sue each other. Should either husband or wife obtain possession or control of property belonging to the other, either before or after marriage, the owner of the property may maintain an action therefor, or for any right growing out of the same, in the same manner and to the same extent as if they were unmar-

ried. [Code 1881 § 2401; 1879 p 80 § 28; 1873 p 452 § 8; RRS § 6903.]

Privileged communications: RCW 5.60.060.

26.16.190 Liability for acts of other spouse. For all injuries committed by a married person, there shall be no recovery against the separate property of the other spouse except in cases where there would be joint responsibility if the marriage did not exist. [1972 ex.s. c 108 § 6; Code 1881 § 2402; RRS § 6904.]

26.16.200 Antenuptial and separate debts, liability for—Child support obligation, liability for. Neither husband or wife is liable for the debts or liabilities of the other incurred before marriage, nor for the separate debts of each other, nor is the rent or income of the separate property of either liable for the separate debts of the other: PROVIDED, That the earnings and accumulations of the husband shall be available to the legal process of creditors for the satisfaction of debts incurred by him prior to marriage, and the earnings and accumulations of the wife shall be available to the legal process of creditors for the satisfaction of debts incurred by her prior to marriage. For the purpose of this section, neither the husband nor the wife shall be construed to have any interest in the earnings of the other: PROVIDED FURTHER, That no separate debt, except a child support or maintenance obligation, may be the basis of a claim against the earnings and accumulations of either a husband or wife unless the same is reduced to judgment within three years of the marriage of the parties. The obligation of a parent or stepparent to support a child may be collected out of the parent's or stepparent's separate property, the parent's or stepparent's earnings and accumulations, and the parent's or stepparent's share of community personal and real property. Funds in a community bank account which can be identified as the earnings of the nonobligated spouse are exempt from satisfaction of the child support obligation of the debtor spouse. [1983 1st ex.s. c 41 § 2; 1969 ex.s. c 121 § 1; Code 1881 § 2405; 1873 p 452 § 10; RRS § 6905.]

Severability—1983 1st ex.s. c 41: See note following RCW 26.09.060.

Collection actions against community bank account: RCW 74.20A.120.

26.16.205 Liability for family support—Termination of support obligation of stepparent, when. The expenses of the family and the education of the children, including stepchildren, are chargeable upon the property of both husband and wife, or either of them, and they may be sued jointly or separately. When a petition for dissolution of marriage or a petition for legal separation is filed, the court may, upon motion of the stepparent, terminate the obligation to support the stepchildren. The obligation to support stepchildren shall cease upon the entry of a decree of dissolution, decree of legal separation, or death. [1990 1st ex.s. c 2 § 13; 1969 ex.s. c 207 § 1; Code 1881 § 2407; RRS § 6906. Formerly RCW 26.20.010.]

Effective dates—Severability—1990 1st ex.s. c 2: See notes following RCW 26.09.100.

26.16.210 Burden of proof in transactions between husband and wife. In every case, where any question arises

as to the good faith of any transaction between husband and wife, whether a transaction between them directly or by intervention of third person or persons, the burden of proof shall be upon the party asserting the good faith. [Code 1881 § 2397; RRS § 5828.]

26.16.220 Quasi-community property defined. (1) Unless the context clearly requires otherwise, as used in RCW 26.16.220 through 26.16.250 "quasi-community property" means all personal property wherever situated and all real property described in subsection (2) of this section that is not community property and that was heretofore or hereafter acquired:

(a) By the decedent while domiciled elsewhere and that would have been the community property of the decedent and of the decedent's surviving spouse had the decedent been domiciled in this state at the time of its acquisition; or

(b) In derivation or in exchange for real or personal property, wherever situated, that would have been the community property of the decedent and the surviving spouse if the decedent had been domiciled in this state at the time the original property was acquired.

(2) For purposes of this section, real property includes:

(a) Real property situated in this state;

(b) Real property situated outside this state if the law of the state where the real property is located provides that the law of the decedent's domicile at death shall govern the rights of the decedent's surviving spouse to a share of such property; and

(c) Leasehold interests in real property described in (a) or (b) of this subsection.

(3) For purposes of this section, all legal presumptions and principles applicable to the proper characterization of property as community property under the laws and decisions of this state shall apply in determining whether property would have been the community property of the decedent and the surviving spouse under the provisions of subsection (1) of this section. [1988 c 34 § 1; 1986 c 72 § 1.]

26.16.230 Quasi-community property—Disposition at death. Upon the death of any person domiciled in this state, one-half of any quasi-community property shall belong to the surviving spouse and the other one-half of such property shall be subject to disposition at death by the decedent, and in the absence thereof, shall descend in the manner provided for community property under chapter 11.04 RCW. [1988 c 34 § 2; 1986 c 72 § 2.]

26.16.240 Quasi-community property—Effect of lifetime transfers—Claims by surviving spouse—Waiver. (1) If a decedent domiciled in this state on the date of his or her death made a lifetime transfer of a property interest that is quasi-community property to a person other than the surviving spouse within three years of death, then within the time for filing claims against the estate as provided by RCW 11.40.010, the surviving spouse may require the transferee to restore to the decedent's estate one-half of such property interest, if the transferee retains the property interest, and, if not, one-half of its proceeds, or, if none, one-half of its value at the time of transfer, if:

(a) The decedent retained, at the time of death, the possession or enjoyment of or the right to income from the property interest;

(b) The decedent retained, at the time of death, a power, either alone or in conjunction with any other person, to revoke or to consume, invade or dispose of the property interest for the decedent's own benefit; or

(c) The decedent held the property interest at the time of death with another with the right of survivorship.

(2) Notwithstanding subsection (1) of this section, no such property interest, proceeds, or value may be required to be restored to the decedent's estate if:

(a) Such property interest was transferred for adequate consideration;

(b) Such property interest was transferred with the consent of the surviving spouse; or

(c) The transferee purchased such property interest in property from the decedent while believing in good faith that the property or property interest was the separate property of the decedent and did not constitute quasi-community property.

(3) All property interests, proceeds, or value restored to the decedent's estate under this section shall belong to the surviving spouse pursuant to RCW 26.16.230 as though the transfer had never been made.

(4) The surviving spouse may waive any right granted hereunder by written instrument filed in the probate proceedings. If the surviving spouse acts as personal representative of the decedent's estate and causes the estate to be closed before the time for exercising any right granted by this section expires, such closure shall act as a waiver by the surviving spouse of any and all rights granted by this section. [1988 c 34 § 3; 1986 c 72 § 3.]

26.16.250 Quasi-community property—Characterization limited to determination of disposition at death—Waiver by written agreement. The characterization of property as quasi-community property under this chapter shall be effective solely for the purpose of determining the disposition of such property at the time of a death, and such characterization shall not affect the rights of the decedent's creditors. For all other purposes property characterized as quasi-community property under this chapter shall be characterized without regard to the provisions of this chapter. A husband and wife may waive, modify, or relinquish any quasi-community property right granted or created by this chapter by signed written agreement, wherever executed, before or after June 11, 1986, including without limitation, community property agreements, prenuptial and postnuptial agreements, or agreements as to status of property. [1988 c 34 § 4; 1986 c 72 § 4.]

Chapter 26.18

CHILD SUPPORT ENFORCEMENT

Sections

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Family abandonment, penalty: RCW 26.20.030.

Family nonsupport, penalty: RCW 26.20.035.

Homestead subject to execution for child support or spousal maintenance: RCW 6.13.080.

26.18.010 Legislative findings. The legislature finds that there is an urgent need for vigorous enforcement of child support obligations, and that stronger and more efficient statutory remedies need to be established to supplement and complement the remedies provided in chapters 26.09, 26.21, 26.26, 74.20, and 74.20A RCW. [1984 c 260 § 1.]

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

(1) "Dependent child" means any child for whom a support order has been established or for whom a duty of support is owed.

(2) "Duty of support" means the duty to provide for the needs of a dependent child, which may include necessary food, clothing, shelter, education, and health care. The duty includes any obligation to make monetary payments, to pay expenses, including spousal maintenance, or to reimburse another person or an agency for the cost of necessary support furnished a dependent child. The duty may be imposed by court order, by operation of law, or otherwise.

(3) "Obligee" means the custodian of a dependent child, or person or agency, to whom a duty of support is owed, or the person or agency to whom the right to receive or collect support has been assigned.

(4) "Obligor" means the person owing a duty of support.

(5) "Support order" means any judgment, decree, or order of support issued by the superior court or authorized agency of the state of Washington; or a judgment, decree, or other order of support issued by a court or agency of competent jurisdiction in another state or country, which has been registered or otherwise made enforceable in this state.

(6) "Employer" includes the United States government, a state or local unit of government, and any person or entity who pays or owes earnings to the obligor.

(7) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy support obligations, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(8) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of any amount required by law to be withheld.

(9) "Department" means the department of social and health services.

(10) "Health insurance coverage" includes any coverage under which medical services are provided by an employer or a union whether that coverage is provided through a self-insurance program, under the employee retirement income security act of 1974, a commercial insurer pursuant to chapters 48.20 and 48.21 RCW, a health care service contractor pursuant to chapter 48.44 RCW, or a health maintenance organization pursuant to chapter 48.46 RCW, and the state through chapter 41.05 RCW.

(11) "Insurer" means a commercial insurance company providing disability insurance under chapter 48.20 or 48.21 RCW, a health care service contractor providing health care coverage under chapter 48.44 RCW, a health maintenance organization providing comprehensive health care services under chapter 48.46 RCW, and shall also include any employer or union which is providing health insurance coverage on a self-insured basis. [1989 c 416 § 2; 1987 c 435 § 17; 1984 c 260 § 2.]

Effective date—1987 c 435: See RCW 26.23.900.

26.18.030 Application—Liberal construction. (1) The remedies provided in this chapter are in addition to, and not in substitution for, any other remedies provided by law.

(2) This chapter applies to any dependent child, whether born before or after June 7, 1984, and regardless of the past or current marital status of the parents.

(3) This chapter shall be liberally construed to assure that all dependent children are adequately supported. [1984 c 260 § 3.]

26.18.035 Other civil and criminal remedies applicable. Nothing in this chapter limits the authority of the attorney general or prosecuting attorney to use any and all civil and criminal remedies to enforce child support obligations regardless of whether or not the custodial parent receives public assistance payments. [1984 c 260 § 24.]

26.18.040 Support proceedings—Commencement—Venue—Who may file—Jurisdiction. (1) A proceeding to enforce a duty of support is commenced:

(a) By filing a petition for an original action; or

(b) By motion in an existing action or under an existing cause number.

(2) Venue for the action is in the superior court of the county where the dependent child resides or is present, where the obligor resides, or where the prior support order was entered. The petition or motion may be filed by the obligee, the state, or any agency providing care or support to the dependent child. A filing fee shall not be assessed in cases brought on behalf of the state of Washington.

(3) The court retains continuing jurisdiction under this chapter until all duties of support of the obligor, including arrearages, with respect to the dependent child have been satisfied. [1984 c 260 § 4.]

26.18.050 Failure to comply with support order—Contempt action—Order to show cause—Bench warrant.

(1) If an obligor fails to comply with a support order, a petition or motion may be filed without notice under RCW 26.18.040 to initiate a contempt action as provided in chapter 7.21 RCW. If the court finds there is reasonable cause to believe the obligor has failed to comply with a support order, the court may issue an order to show cause requiring the obligor to appear at a certain time and place for a hearing, at which time the obligor may appear to show cause why the relief requested should not be granted. A copy of the petition or motion shall be served on the obligor along with the order to show cause.

(2) Service of the order to show cause shall be by personal service, or in the manner provided in the civil rules of superior court or applicable statute.

(3) If the order to show cause served upon the obligor included a warning that an arrest warrant could be issued for failure to appear, the court may issue a bench warrant for the arrest of the obligor if the obligor fails to appear on the return date provided in the order.

(4) If the obligor contends at the hearing that he or she lacked the means to comply with the support order, the obligor shall establish that he or she exercised due diligence in seeking employment, in conserving assets, or otherwise in rendering himself or herself able to comply with the court's order. [1989 c 373 § 22; 1984 c 260 § 5.]

Severability—1989 c 373: See RCW 7.21.900.

26.18.070 Mandatory wage assignment—Petition or motion. (1) A petition or motion seeking a mandatory wage assignment in an action under RCW 26.18.040 may be filed by an obligee if the obligor is more than fifteen days past due in child support payments in an amount equal to or greater than the support payable for one month. The petition or motion shall include a sworn statement by the obligee, stating the facts authorizing the issuance of the wage assignment order, including:

(a) That the obligor, stating his or her name and residence, is more than fifteen days past due in child support payments in an amount equal to or greater than the support payable for one month;

(b) A description of the terms of the support order requiring payment of support, and the amount past due;

(c) The name and address of the obligor's employer;

(d) That notice by personal service or any form of mail requiring a return receipt, has been provided to the obligor

at least fifteen days prior to the obligee seeking a mandatory wage assignment, unless the order for support states that the obligee may seek a mandatory wage assignment without notice to the obligor; and

(e) In cases not filed by the state, whether the obligee has received public assistance from any source and, if the obligee has received public assistance, that the department of social and health services has been notified in writing of the pending action.

(2) If the court in which a mandatory wage assignment is sought does not already have a copy of the support order in the court file, then the obligee shall attach a copy of the support order to the petition or motion seeking the wage assignment. [1987 c 435 § 18; 1984 c 260 § 7.]

Effective date—1987 c 435: See RCW 26.23.900.

26.18.080 Wage assignment order—Issuance—Information transmitted to state support registry.

(1) Upon receipt of a petition or motion seeking a mandatory wage assignment that complies with RCW 26.18.070, the court shall issue a wage assignment order, as provided in RCW 26.18.100 and including the information required in RCW 26.18.090(1), directed to the employer, and commanding the employer to answer the order on the forms served with the order that comply with RCW 26.18.120 within twenty days after service of the order upon the employer.

(2) The clerk of the court shall forward a copy of the mandatory wage assignment order, a true and correct copy of the support orders in the court file, and a statement containing the obligee's address and social security number shall be forwarded to the Washington state support registry within five days of the entry of the order. [1987 c 435 § 19; 1984 c 260 § 8.]

Effective date—1987 c 435: See RCW 26.23.900.

26.18.090 Wage assignment order—Contents—Amounts—Apportionment of disbursements.

(1) The wage assignment order in RCW 26.18.080 shall include:

(a) The maximum amount of current support, if any, to be withheld from the obligor's earnings each month, or from each earnings disbursement; and

(b) The total amount of the arrearage or reimbursement judgment previously entered by the court, if any, together with interest, if any.

(2) The total amount to be withheld from the obligor's earnings each month, or from each earnings disbursement, shall not exceed fifty percent of the disposable earnings of the obligor. If the amounts to be paid toward the arrearage are specified in the support order, then the maximum amount to be withheld is the sum of the current support ordered and the amount ordered to be paid toward the arrearage, or fifty percent of the disposable earnings of the obligor, whichever is less.

(3) The provisions of RCW 6.27.150 do not apply to wage assignments for child support authorized under this chapter, but fifty percent of the disposable earnings of the obligor are exempt, and may be disbursed to the obligor.

(4) If an obligor is subject to two or more attachments for child support on account of different obligees, the employer shall, if the nonexempt portion of the obligor's earnings is not sufficient to respond fully to all the attach-

ments, apportion the obligor's nonexempt disposable earnings between or among the various obligees equally. Any obligee may seek a court order reapportioning the obligor's nonexempt disposable earnings upon notice to all interested obligees. Notice shall be by personal service, or in the manner provided by the civil rules of superior court or applicable statute. [1984 c 260 § 9.]

26.18.100 Wage assignment order—Form. The wage assignment order shall be substantially in the following form:

IN THE SUPERIOR COURT OF THE
STATE OF WASHINGTON IN AND FOR THE
COUNTY OF

. ,
Obligee No.
vs.
. , WAGE ASSIGNMENT
Obligor ORDER
. ,
Employer
THE STATE OF WASHINGTON TO:
Employer
AND TO:
Obligor

The above-named obligee claims that the above-named obligor is more than fifteen days past due in child support payments in an amount equal to or greater than the child support payable for one month. The amount of the accrued child support debt as of this date is dollars, the amount of arrearage payments specified in the support order (if applicable) is dollars per, and the amount of the current and continuing support obligation under the support order is dollars per

You are hereby commanded to answer this order by filling in the attached form according to the instructions, and you must mail or deliver the original of the answer to the court, one copy to the Washington state support registry, one copy to the obligee or obligee's attorney, and one copy to the obligor within twenty days after service of this wage assignment order upon you.

If you possess any earnings due and owing to the obligor, then you shall do as follows:

(1) Withhold from the obligor's earnings each month, or from each regular earnings disbursement, the lesser of:

(a) The sum of the accrued support debt and the current support obligation;

(b) The sum of the specified arrearage payment amount and the current support obligation; or

(c) Fifty percent of the disposable earnings of the obligor.

(2) The total amount withheld above is subject to the wage assignment order, and all other sums may be disbursed to the obligor.

(3) Upon receipt of this wage assignment order you shall make immediate deductions from the obligor's earnings and remit to the Washington state support registry the proper amounts at each regular pay interval.

You shall continue to withhold the ordered amounts from nonexempt earnings of the obligor until notified by:

(a) The court that the wage assignment has been modified or terminated;

(b) The Washington state support registry, office of support enforcement that the accrued child support debt has been paid; or

(c) The court that has entered an order delaying, modifying, or terminating the wage assignment order and has approved an alternate payment plan as provided in RCW 26.23.050(2).

You shall promptly notify the court and the Washington state support registry if and when the employee is no longer employed by you. If you no longer employ the employee, the wage assignment order shall remain in effect for one year after the employee has left your employment or your [you] are no longer in possession of any earnings owed to the employee. You shall continue to hold the wage assignment order during that one-year period. If the employee returns to your employment during the one-year period you shall immediately begin to withhold the employee's earnings according to the terms of the wage assignment order. If the employee has not returned to your employment within one year, the wage assignment will cease to have effect at the expiration of the one-year period.

You shall deliver the withheld earnings to the Washington state support registry at each regular pay interval.

You shall deliver a copy of this order to the obligor as soon as is reasonably possible. This wage assignment order has priority over any other wage assignment or garnishment, except for another wage assignment or garnishment for child support, or order to withhold or deliver under chapter 74.20A RCW.

WHETHER OR NOT YOU OWE ANYTHING TO THE OBLIGOR, YOUR FAILURE TO ANSWER AS REQUIRED MAY MAKE YOU LIABLE FOR OBLIGOR'S CLAIMED SUPPORT DEBT TO THE OBLIGEE OR SUBJECT TO CONTEMPT OF COURT.

NOTICE TO OBLIGOR: YOU HAVE A RIGHT TO REQUEST A HEARING IN THE SUPERIOR COURT THAT ISSUED THIS WAGE ASSIGNMENT ORDER, TO REQUEST THAT THE COURT QUASH, MODIFY, OR TERMINATE THE WAGE ASSIGNMENT ORDER.

DATED THIS day of, 19. . .

.....
Obligee, Judge/Court Commissioner
or obligee's attorney

[1991 c 367 § 20; 1989 c 416 § 10; 1987 c 435 § 20; 1984 c 260 § 10.]

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.

Effective date—1987 c 435: See RCW 26.23.900.

26.18.110 Wage assignment order—Employer's answer, duties, and liability—Priority. (1) An employer upon whom service of a wage assignment order has been made shall answer the order by sworn affidavit within twenty days after the date of service. The answer shall state

whether the obligor is employed by or receives earnings from the employer, whether the employer will honor the wage assignment order, and whether there are multiple child support attachments against the obligor.

(2) If the employer possesses any earnings due and owing to the obligor, the earnings subject to the wage assignment order shall be withheld immediately upon receipt of the wage assignment order. The withheld earnings shall be delivered to the Washington state support registry at each regular pay interval.

(3) The employer shall continue to withhold the ordered amounts from nonexempt earnings of the obligor until notified by:

(a) The court that the wage assignment has been modified or terminated;

(b) The Washington state support registry that the accrued child support debt has been paid, provided the wage assignment order contains the language set forth under *RCW 26.18.100(2)(b). The employer shall promptly notify the Washington state support registry when the employee is no longer employed. If the employer no longer employs the employee, the wage assignment order shall remain in effect for one year after the employee has left the employment or the employer has been in possession of any earnings owed to the employee. The employer shall continue to hold the wage assignment order during that one-year period. If the employee returns to the employer's employment during the one-year period the employer shall immediately begin to withhold the employee's earnings according to the terms of the wage assignment order. If the employee has not returned within one year, the wage assignment shall cease to have effect at the expiration of the one-year period; or

(c) The court that has entered an order delaying, modifying, or terminating the wage assignment order and has approved an alternate payment plan as provided in RCW 26.23.050(2).

(4) The employer may deduct a processing fee from the remainder of the employee's earnings after withholding under the wage assignment order, even if the remainder is exempt under RCW 26.18.090. The processing fee may not exceed (a) ten dollars for the first disbursement made by the employer to the Washington state support registry; and (b) one dollar for each subsequent disbursement to the clerk.

(5) An order for wage assignment for support entered under this chapter shall have priority over any other wage assignment or garnishment, except for another wage assignment or garnishment for child support, or order to withhold and deliver under chapter 74.20A RCW.

(6) An employer who fails to withhold earnings as required by a wage assignment issued under this chapter may be held liable to the obligee for one hundred percent of the support debt, or the amount of support moneys that should have been withheld from the employee's earnings whichever is the lesser amount, if the employer:

(a) Fails or refuses, after being served with a wage assignment order, to deduct and promptly remit from the unpaid earnings the amounts of money required in the order;

(b) Fails or refuses to submit an answer to the notice of wage assignment after being served; or

(c) Is unwilling to comply with the other requirements of this section.

Liability may be established in superior court. Awards in superior court shall include costs, interest under RCW 19.52.020 and 4.56.110, and reasonable attorneys' fees.

(7) No employer who complies with a wage assignment issued under this chapter may be liable to the employee for wrongful withholding.

(8) No employer may discharge, discipline, or refuse to hire an employee because of the entry or service of a wage assignment issued and executed under this chapter. If an employer discharges, disciplines, or refuses to hire an employee in violation of this section, the employee or person shall have a cause of action against the employer. The employer shall be liable for double the amount of damages suffered as a result of the violation and for costs and reasonable attorneys' fees, and shall be subject to a civil penalty of not more than two thousand five hundred dollars for each violation. The employer may also be ordered to hire, rehire, or reinstate the aggrieved individual.

(9) An employer may combine amounts withheld from various employees into a single payment to the Washington state support registry, if the payment includes a listing of the amounts attributable to each employee and other information as required by the registry.

(10) An employer shall deliver a copy of the wage assignment order to the obligor as soon as is reasonably possible. [1991 c 367 § 21; 1989 c 416 § 11; 1987 c 435 § 21; 1984 c 260 § 11.]

*Reviser's note: RCW 26.18.100(2)(b) was renumbered RCW 26.18.100(3)(b) by 1991 c 367 § 20.

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.

Effective date—1987 c 435: See RCW 26.23.900.

26.18.120 Wage assignment order—Employer's answer—Form. The answer of the employer shall be made on forms, served on the employer with the wage assignment order, substantially as follows:

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR THE COUNTY OF

..... No.
Obligee
vs. ANSWER
..... TO WAGE
Obligor ASSIGNMENT ORDER
.....
Employer

1. At the time of the service of the wage assignment order on the employer, was the above-named obligor employed by or receiving earnings from the employer?

Yes No (check one).

2. Are there any other attachments for child support currently in effect against the obligor?

Yes No (check one).

3. If the answer to question one is yes and the employer cannot comply with the wage assignment order, provide an explanation:

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

.....
Signature of employer Date and place
.....

.....
Signature of person Address for future notice
answering for employer to employer
.....

.....
Connection with employer

[1984 c 260 § 12.]

26.18.130 Wage assignment order—Service. (1)

Service of the wage assignment order on the employer is invalid unless it is served with five answer forms in substantial conformance with RCW 26.18.120, together with stamped envelopes addressed to, respectively, the clerk of the court where the order was issued, the Washington state support registry, the obligee's attorney or the obligee, and the obligor. The obligee shall also include an extra copy of the wage assignment order for the employer to deliver to the obligor. Service on the employer shall be in person or by any form of mail requiring a return receipt.

(2) On or before the date of service of the wage assignment order on the employer, the obligee shall mail or cause to be mailed by certified mail a copy of the wage assignment order to the obligor at the obligor's last known post office address; or, in the alternative, a copy of the wage assignment order shall be served on the obligor in the same manner as a summons in a civil action on, before, or within two days after the date of service of the order on the employer. This requirement is not jurisdictional, but if the copy is not mailed or served as this subsection provides, or if any irregularity appears with respect to the mailing or service, the superior court, in its discretion, may quash the wage assignment order, upon motion of the obligor promptly made and supported by an affidavit showing that the obligor has suffered substantial injury due to the failure to mail or serve the copy. [1987 c 435 § 22; 1984 c 260 § 13.]

Effective date—1987 c 435: See RCW 26.23.900.

26.18.140 Hearing to quash, modify, or terminate wage assignment order—Grounds—Alternate payment plan. (1)

Except as provided in subsection (2) of this section, in a hearing to quash, modify, or terminate the wage assignment order, the court may grant relief only upon a showing that the wage assignment order causes extreme hardship or substantial injustice. Satisfaction by the obligor of all past due payments subsequent to the issuance of the wage assignment order is not grounds to quash, modify, or terminate the wage assignment order. If a wage assignment order has been in operation for twelve consecutive months and the obligor's support obligation is current, the court may terminate the order upon motion of the obligor unless the obligee can show good cause as to why the wage assignment order should remain in effect.

(2) The court may enter an order delaying, modifying, or terminating the wage assignment order and order the obligor to make payments directly to the obligee if the court

approves an alternate payment plan as provided in RCW 26.23.050(2). [1991 c 367 § 22; 1984 c 260 § 14.]

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.

26.18.150 Bond or other security. (1) In any action to enforce a support order under Title 26 RCW, the court may, in its discretion, order a parent obligated to pay support for a minor child to post a bond or other security with the court. The bond or other security shall be in the amount of support due for a two-year period. The bond or other security is subject to approval by the court. The bond shall include the name and address of the issuer. If the bond is canceled, any person issuing a bond under this section shall notify the court and the person entitled to receive payment under the order.

(2) If the parent obligated to pay support fails to make payments as required under the court order, the person entitled to receive payment may recover on the bond or other security in the existing proceeding. The court may, after notice and hearing, increase the amount of the bond or other security. Failure to comply with the court's order to obtain and maintain a bond or other security may be treated as contempt of court. [1984 c 260 § 15.]

26.18.160 Costs. In any action to enforce a support order under this chapter, the prevailing party is entitled to a recovery of costs, including an award for reasonable attorney fees. An obligor may not be considered a prevailing party under this section unless the obligee has acted in bad faith in connection with the proceeding in question. [1984 c 260 § 25.]

26.18.170 Health insurance coverage—Enforcement. (1) Whenever an obligor parent who has been ordered to provide health insurance coverage for a dependent child fails to provide such coverage or lets it lapse, the department or the obligee may seek enforcement of the coverage order as provided under this section.

(2)(a) If the obligor parent's order to provide health insurance coverage contains language notifying the obligor that failure to provide such coverage may result in direct enforcement of the order and orders payments through, or has been submitted to, the Washington state support registry for enforcement, then the department may, without further notice to the obligor, send a notice of enrollment to the obligor's employer or union by certified mail, return receipt requested.

The notice shall require the employer or union to enroll the child in the health insurance plan as provided in subsection (3) of this section.

(b) If the obligor parent's order to provide health insurance coverage does not order payments through, and has not been submitted to, the Washington state support registry for enforcement:

(i) The obligee may, without further notice to the obligor send a certified copy of the order requiring health insurance coverage to the obligor's employer or union by certified mail, return receipt requested; and

(ii) The obligee shall attach a notarized statement to the order declaring that the order is the latest order addressing

coverage entered by the court and require the employer or union to enroll the child in the health insurance plan as provided in subsection (3) of this section.

(3) Upon receipt of an order that provides for health insurance coverage, or a notice of enrollment:

(a) The obligor's employer or union shall answer the party who sent the order or notice within thirty-five days and confirm that the child:

(i) Has been enrolled in the health insurance plan;

(ii) Will be enrolled in the next open enrollment period;

or

(iii) Cannot be covered, stating the reasons why such coverage cannot be provided;

(b) The employer or union shall withhold any required premium from the obligor's income or wages;

(c) If more than one plan is offered by the employer or union, and each plan may be extended to cover the child, then the child shall be enrolled in the obligor's plan. If the obligor's plan does not provide coverage which is accessible to the child, the child shall be enrolled in the least expensive plan otherwise available to the obligor parent;

(d) The employer or union shall provide information about the name of the health insurance coverage provider or insurer and the extent of coverage available to the obligee or the department and shall make available any necessary claim forms or enrollment membership cards.

(4) If the order for coverage contains no language notifying the obligor that failure to provide health insurance coverage may result in direct enforcement of the order, the department or the obligee may serve a written notice of intent to enforce the order on the obligor by certified mail, return receipt requested, or by personal service. If the obligor fails to provide written proof that such coverage has been obtained or applied for within twenty days of service of the notice, or within twenty days of coverage becoming available the department or the obligee may proceed to enforce the order directly as provided in subsection (2) of this section.

(5) If the obligor ordered to provide health insurance coverage elects to provide coverage that will not be accessible to the child because of geographic or other limitations when accessible coverage is otherwise available, the department or the obligee may serve a written notice of intent to purchase health insurance coverage on the obligor by certified mail, return receipt requested. The notice shall also specify the type and cost of coverage.

(6) If the department serves a notice under subsection (5) of this section the obligor shall, within twenty days of the date of service:

(a) File an application for an adjudicative proceeding; or

(b) Provide written proof to the department that the obligor has either applied for, or obtained, coverage accessible to the child.

(7) If the obligee serves a notice under subsection (5) of this section, within twenty days of the date of service the obligor shall provide written proof to the obligee that the obligor has either applied for, or obtained, coverage accessible to the child.

(8) If the obligor fails to respond to a notice served under subsection (5) of this section to the party who served the notice, the party who served the notice may purchase the health insurance coverage specified in the notice directly.

The amount of the monthly premium shall be added to the support debt and be collectible without further notice. The amount of the monthly premium may be collected or accrued until the obligor provides proof of the required coverage.

(9) The signature of the obligee or of a department employee shall be a valid authorization to the coverage provider or insurer for purposes of processing a payment to the child's health services provider. An order for health insurance coverage shall operate as an assignment of all benefit rights to the obligee or to the child's health services provider, and in any claim against the coverage provider or insurer, the obligee or the obligee's assignee shall be subrogated to the rights of the obligor. Notwithstanding the provisions of this section regarding assignment of benefits, this section shall not require a health care service contractor authorized under chapter 48.44 RCW or a health maintenance organization authorized under chapter 48.46 RCW to deviate from their contractual provisions and restrictions regarding reimbursement for covered services. If the coverage is terminated, the employer shall mail a notice of termination to the department or the obligee at the obligee's last known address within thirty days of the termination date.

(10) This section shall not be construed to limit the right of the obligor or the obligee to bring an action in superior court at any time to enforce, modify, or clarify the original support order.

(11) Nothing in this section shall be construed to require a health maintenance organization, or health care service contractor, to extend coverage to a child who resides outside its service area. [1989 c 416 § 5.]

26.18.180 Liability of employer or union—Penalties.

(1) An obligated parent's employer or union shall be liable for a fine of up to one thousand dollars per occurrence, if the employer or union fails or refuses, within thirty-five days of receiving the order or notice for health insurance coverage to:

(a) Promptly enroll the obligated parent's child in the health insurance plan; or

(b) Make a written answer to the person or entity who sent the order or notice for health insurance coverage stating that the child:

(i) Will be enrolled in the next available open enrollment period; or

(ii) Cannot be covered and explaining the reasons why coverage cannot be provided.

(2) Liability may be established and the fine may be collected by the office of support enforcement under chapter 74.20A or 26.23 RCW using any of the remedies contained in those chapters.

(3) Any employer or union who enrolls a child in a health insurance plan in compliance with chapter 26.18 RCW shall be exempt from liability resulting from such enrollment. [1989 c 416 § 9.]

26.18.190 Compensation paid by agency or self-insurer on behalf of child.

(1) When the department of labor and industries or a self-insurer pays compensation under chapter 51.32 RCW on behalf of or on account of the child or children of the injured worker for whom the injured worker owes a duty of child support, the amount of compen-

sation the department or self-insurer pays on behalf of the child or children shall be treated for all purposes as if the injured worker paid the compensation toward satisfaction of the injured worker's child support obligations.

(2) When the social security administration pays social security disability dependency benefits on behalf of or on account of the child or children of the disabled person, the amount of compensation paid for the children shall be treated for all purposes as if the disabled person paid the compensation toward satisfaction of the disabled person's child support obligation.

(3) Under no circumstances shall the person who has the obligation to make the transfer payment have a right to reimbursement of any compensation paid under subsection (1) or (2) of this section. [1990 1st ex.s. c 2 § 17.]

Effective dates—Severability—1990 1st ex.s. c 2: See notes following RCW 26.09.100.

26.18.210 Child support order summary report form.

(1) The administrator for the courts shall develop a child support order summary report form to provide for the reporting of summary information in every case in which a child support order is entered or modified either judicially or administratively. The administrator for the courts shall attempt to the greatest extent possible to make the form simple and understandable by the parties. The form shall indicate the following:

(a) The county in which the order was entered and the cause number;

(b) Whether it was a judicial or administrative order;

(c) Whether the order is an original order or from a modification;

(d) The number of children of the parties and the children's ages;

(e) The combined monthly net income of parties;

(f) The monthly net income of the father as determined by the court;

(g) The monthly net income of the mother as determined by the court;

(h) The basic child support obligation for each child as determined from the economic table;

(i) Whether or not the court deviated from the child support for each child;

(j) The reason or reasons stated by the court for the deviation;

(k) The amount of child support after the deviation;

(l) Any amount awarded for day care;

(m) Any other extraordinary amounts in the order;

(n) Any amount ordered for postsecondary education;

(o) The total amount of support ordered;

(p) In the case of a modification, the amount of support in the previous order;

(q) If the change in support was in excess of thirty percent, whether the change was phased in;

(r) The amount of the transfer payment ordered;

(s) Which parent was ordered to make the transfer payment; and

(t) The date of the entry of the order.

(2) The administrator for the courts shall make the form available to the parties. [1990 1st ex.s. c 2 § 22.]

Effective dates—Severability—1990 1st ex.s. c 2: See notes following RCW 26.09.100.

26.18.220 Standard court forms—Mandatory use.

(1) The administrator for the courts shall develop not later than July 1, 1991, standard court forms and format rules for mandatory use by litigants in all actions commenced under chapters 26.09, 26.10, and 26.26 RCW effective January 1, 1992. The administrator for the courts shall develop mandatory forms for financial affidavits for integration into the worksheets. The forms shall be developed and approved not later than September 1, 1992. The parties shall use the mandatory form for financial affidavits for actions commenced on or after September 1, 1992. The administrator for the courts has continuing responsibility to develop and revise mandatory forms and format rules as appropriate.

(2) A party may delete unnecessary portions of the forms according to the rules established by the administrator for the courts. A party may supplement the mandatory forms with additional material.

(3) A party's failure to use the mandatory forms or follow the format rules shall not be a reason to dismiss a case, refuse a filing, or strike a pleading. However, the court may require the party to submit a corrected pleading and may impose terms payable to the opposing party or payable to the court, or both.

(4) The administrator for the courts shall distribute a master copy of the forms to all county court clerks. The administrator for the courts and county clerks shall distribute the mandatory forms to the public upon request and may charge for the cost of production and distribution of the forms. Private vendors may distribute the mandatory forms. Distribution may be in printed or electronic form. [1992 c 229 § 5; 1990 1st ex.s. c 2 § 25.]

Effective dates—Severability—1990 1st ex.s. c 2: See notes following RCW 26.09.100.

26.18.900 Severability—1984 c 260. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1984 c 260 § 43.]

Chapter 26.19**CHILD SUPPORT SCHEDULE**

Sections	
26.19.001	Legislative intent and finding.
26.19.011	Definitions.
26.19.020	Child support economic table.
26.19.025	Legislative review of support schedule.
26.19.035	Standards for application of the child support schedule.
26.19.045	Veterans' disability pensions, compensation for disability, and aid and attendant care payments.
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26.19.055	Payments for attendant services in cases of disability.
26.19.065	Standards for establishing lower and upper limits on child support amounts.
26.19.071	Standards for determination of income.
26.19.075	Standards for deviation from the standard calculation.
26.19.080	Allocation of child support obligation between parents.
26.19.090	Standards for postsecondary educational support awards.
26.19.100	Federal income tax exemptions.

26.19.001 Legislative intent and finding. The legislature intends, in establishing a child support schedule, to insure that child support orders are adequate to meet a

child's basic needs and to provide additional child support commensurate with the parents' income, resources, and standard of living. The legislature also intends that the child support obligation should be equitably apportioned between the parents.

The legislature finds that these goals will be best achieved by the adoption and use of a state-wide child support schedule. Use of a state-wide schedule will benefit children and their parents by:

(1) Increasing the adequacy of child support orders through the use of economic data as the basis for establishing the child support schedule;

(2) Increasing the equity of child support orders by providing for comparable orders in cases with similar circumstances; and

(3) Reducing the adversarial nature of the proceedings by increasing voluntary settlements as a result of the greater predictability achieved by a uniform state-wide child support schedule. [1988 c 275 § 1.]

Effective dates—1988 c 275: "Except for sections 4, 8, and 9 of this act, this act shall take effect July 1, 1988. Sections 4 and 8 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 [March 24, 1988]." [1988 c 275 § 23.]

Severability—1988 c 275: "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." [1988 c 275 § 24.]

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

(1) "Basic child support obligation" means the monthly child support obligation determined from the economic table based on the parties' combined monthly net income and the number of children for whom support is owed.

(2) "Child support schedule" means the standards, economic table, worksheets, and instructions, as defined in this chapter.

(3) "Court" means a superior court judge, court commissioner, and presiding and reviewing officers who administratively determine or enforce child support orders.

(4) "Deviation" means a child support amount that differs from the standard calculation.

(5) "Economic table" means the child support table for the basic support obligation provided in RCW 26.19.020.

(6) "Instructions" means the instructions developed by the office of the administrator for the courts pursuant to RCW 26.19.050 for use in completing the worksheets.

(7) "Standards" means the standards for determination of child support as provided in this chapter.

(8) "Standard calculation" means the presumptive amount of child support owed as determined from the child support schedule before the court considers any reasons for deviation.

(9) "Support transfer payment" means the amount of money the court orders one parent to pay to another parent or custodian for child support after determination of the standard calculation and deviations. If certain expenses or credits are expected to fluctuate and the order states a formula or percentage to determine the additional amount or

credit on an ongoing basis, the term "support transfer payment" does not mean the additional amount or credit.

(10) "Worksheets" means the forms developed by the office of the administrator for the courts pursuant to RCW 26.19.050 for use in determining the amount of child support. [1991 sp.s. c 28 § 4.]

Severability—Effective date—Captions not law—1991 sp.s. c 28: See notes following RCW 26.09.100.

26.19.020 Child support economic table.

**ECONOMIC TABLE
MONTHLY BASIC SUPPORT OBLIGATION
PER CHILD**

KEY: A = AGE 0-11 B = AGE 12-18

COMBINED MONTHLY NET INCOME	ONE CHILD FAMILY		TWO CHILDREN FAMILY	
	A	B	A	B
0				
100				
200				
300	For income less than \$600 the obligation			
400	is based upon the resources and living expenses			
500	of each household. Minimum support shall not			
	be less than \$25 per child per month.			
600	133	164	103	127
700	155	191	120	148
800	177	218	137	170
900	199	246	154	191
1000	220	272	171	211
1100	242	299	188	232
1200	264	326	205	253
1300	285	352	221	274
1400	307	379	238	294
1500	327	404	254	313
1600	347	428	269	333
1700	367	453	285	352
1800	387	478	300	371
1900	407	503	316	390
2000	427	527	331	409
2100	447	552	347	429
2200	467	577	362	448
2300	487	601	378	467
2400	506	626	393	486
2500	526	650	408	505
2600	534	661	416	513
2700	542	670	421	520
2800	549	679	427	527
2900	556	686	431	533
3000	561	693	436	538
3100	566	699	439	543
3200	569	704	442	546
3300	573	708	445	549
3400	574	710	446	551
3500	575	711	447	552
3600	577	712	448	553
3700	578	713	449	554

3800	581	719	452	558
3900	596	736	463	572
4000	609	753	473	584
4100	623	770	484	598
4200	638	788	495	611
4300	651	805	506	625
4400	664	821	516	637
4500	677	836	525	649
4600	689	851	535	661
4700	701	866	545	673
4800	713	882	554	685
4900	726	897	564	697
5000	738	912	574	708
5100	751	928	584	720
5200	763	943	593	732
5300	776	959	602	744
5400	788	974	612	756
5500	800	989	622	768
5600	812	1004	632	779
5700	825	1019	641	791
5800	837	1035	650	803
5900	850	1050	660	815
6000	862	1065	670	827
6100	875	1081	680	839
6200	887	1096	689	851
6300	899	1112	699	863
6400	911	1127	709	875
6500	924	1142	718	887
6600	936	1157	728	899
6700	949	1172	737	911
6800	961	1188	747	923
6900	974	1203	757	935
7000	986	1218	767	946

COMBINED MONTHLY NET INCOME	THREE CHILDREN FAMILY		FOUR CHILDREN FAMILY		FIVE CHILDREN FAMILY	
	A	B	A	B	A	B
0						
100						
200						
300	For income less than \$600 the obligation					
400	is based upon the resources and living expenses					
500	of each household. Minimum support shall not be					
	less than \$25 per child per month.					
600	86	106	73	90	63	78
700	100	124	85	105	74	91
800	115	142	97	120	84	104
900	129	159	109	135	95	118
1000	143	177	121	149	105	130
1100	157	194	133	164	116	143
1200	171	211	144	179	126	156
1300	185	228	156	193	136	168
1400	199	246	168	208	147	181
1500	212	262	179	221	156	193
1600	225	278	190	235	166	205
1700	238	294	201	248	175	217
1800	251	310	212	262	185	228

1900	264	326	223	275	194	240
2000	277	342	234	289	204	252
2100	289	358	245	303	213	264
2200	302	374	256	316	223	276
2300	315	390	267	330	233	288
2400	328	406	278	343	242	299
2500	341	421	288	356	251	311
2600	346	428	293	362	256	316
2700	351	435	298	368	259	321
2800	356	440	301	372	262	324
2900	360	445	305	376	266	328
3000	364	449	308	380	268	331
3100	367	453	310	383	270	334
3200	369	457	312	386	272	336
3300	371	459	314	388	273	339
3400	372	460	315	389	274	340
3500	373	461	316	390	275	341
3600	374	462	317	391	276	342
3700	375	463	318	392	277	343
3800	377	466	319	394	278	344
3900	386	477	326	404	284	352
4000	395	488	334	413	291	360
4100	404	500	341	422	298	368
4200	413	511	350	431	305	377
4300	422	522	357	441	311	385
4400	431	532	364	449	317	392
4500	438	542	371	458	323	400
4600	446	552	377	467	329	407
4700	455	562	384	475	335	414
4800	463	572	391	483	341	422
4900	470	581	398	491	347	429
5000	479	592	404	500	353	437
5100	487	602	411	509	359	443
5200	494	611	418	517	365	451
5300	503	621	425	525	371	458
5400	511	632	432	533	377	466
5500	518	641	439	542	383	473
5600	527	651	446	551	389	480
5700	535	661	452	559	395	488
5800	543	671	459	567	401	495
5900	551	681	466	575	407	502
6000	559	691	473	584	413	509
6100	567	701	479	593	418	517
6200	575	710	486	601	424	524
6300	583	721	493	609	430	532
6400	591	731	500	617	436	539
6500	599	740	506	626	442	546
6600	607	750	513	635	448	554
6700	615	761	520	643	454	561
6800	623	770	527	651	460	568
6900	631	780	533	659	466	575
7000	639	790	540	668	472	583

When combined monthly net income exceeds seven thousand dollars, the court may set support at an advisory amount of support set for combined monthly net incomes between five thousand and seven thousand dollars or the court may exceed the advisory amount of support set for combined monthly net incomes of seven thousand dollars upon written findings of fact. [1991 c 367 § 25; 1990 1st ex.s. c 2 § 19; 1989 c 175 § 76; 1988 c 275 § 3.]

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.

Effective dates—Severability—1990 1st ex.s. c 2: See notes following RCW 26.09.100.

Effective date—1989 c 175: See note following RCW 34.05.010.

Effective dates—Severability—1988 c 275: See notes following RCW 26.19.001.

26.19.025 Legislative review of support schedule.

The legislature shall review the support schedule every four years to determine if the application of the support schedule results in appropriate support orders. [1991 c 367 § 26.]

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.

26.19.035 Standards for application of the child support schedule. (1) Application of the child support schedule. The child support schedule shall be applied:

- (a) In each county of the state;
- (b) In judicial and administrative proceedings under this title or Title 13 or 74 RCW;
- (c) In all proceedings in which child support is determined or modified;
- (d) In setting temporary and permanent support;
- (e) In automatic modification provisions or decrees entered pursuant to RCW 26.09.100; and
- (f) In addition to proceedings in which child support is determined for minors, to adult children who are dependent on their parents and for whom support is ordered pursuant to RCW 26.09.100.

The provisions of this chapter for determining child support and reasons for deviation from the standard calculation shall be applied in the same manner by the court, presiding officers, and reviewing officers.

(2) Written findings of fact supported by the evidence. An order for child support shall be supported by written findings of fact upon which the support determination is based and shall include reasons for any deviation from the standard calculation and reasons for denial of a party's request for deviation from the standard calculation. The court shall enter written findings of fact in all cases whether or not the court: (a) Sets the support at the presumptive amount, for combined monthly net incomes below five thousand dollars; (b) sets the support at an advisory amount, for combined monthly net incomes between five thousand and seven thousand dollars; or (c) deviates from the presumptive or advisory amounts.

(3) Completion of worksheets. Worksheets in the form developed by the office of the administrator for the courts shall be completed under penalty of perjury and filed in every proceeding in which child support is determined. The court shall not accept incomplete worksheets or worksheets that vary from the worksheets developed by the office of the administrator for the courts.

The economic table is presumptive for combined monthly net incomes up to and including five thousand dollars. When combined monthly net income exceeds five thousand dollars, support shall not be set at an amount lower than the presumptive amount of support set for combined monthly net incomes of five thousand dollars unless the court finds a reason to deviate below that amount. The economic table is advisory but not presumptive for combined monthly net incomes that exceed five thousand dollars.

(4) **Court review of the worksheets and order.** The court shall review the worksheets and the order setting support for the adequacy of the reasons set forth for any deviation or denial of any request for deviation and for the adequacy of the amount of support ordered. Each order shall state the amount of child support calculated using the standard calculation and the amount of child support actually ordered. Worksheets shall be attached to the decree or order or if filed separately shall be initialed or signed by the judge and filed with the order. [1992 c 229 § 6; 1991 c 367 § 27.]

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.

26.19.045 Veterans' disability pensions, compensation for disability, and aid and attendant care payments. Veterans' disability pensions or regular compensation for disability incurred in or aggravated by service in the United States armed forces paid by the veterans' administration shall be disclosed to the court. The court may consider either type of compensation as disposable income for purposes of calculating the child support obligation. Aid and attendant care payments to prevent hospitalization paid by the veterans' administration solely to provide physical home care for a disabled veteran, and special medical compensation paid under 38 U.S.C. Sec. 314 (k) through (r) to provide either special care or special aids, or both, to assist with routine daily functions shall also be disclosed. The court may not include either aid and attendant care or special medical compensation payments in gross income for purposes of calculating the child support obligation or for purposes of deviating from the standard calculation. [1991 c 367 § 30.]

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.

26.19.050 Worksheets and instructions. (1) The administrator for the courts shall develop and adopt worksheets and instructions to assist the parties and courts in establishing the appropriate child support level and apportionment of support. The administrator for the courts shall attempt to the greatest extent possible to make the worksheets and instructions understandable by persons who are not represented by legal counsel.

(2) The administrator for the courts shall develop and adopt standards for the printing of worksheets and shall establish a process for certifying printed worksheets. The administrator may maintain a register of sources for approved worksheets.

(3) The administrator for the courts should explore methods to assist pro se parties and judges in the courtroom to calculate support payments through automated software, equipment, or personal assistance. [1990 1st ex.s. c 2 § 5; 1988 c 275 § 6.]

Effective dates—Severability—1990 1st ex.s. c 2: See notes following RCW 26.09.100.

Effective dates—Severability—1988 c 275: See notes following RCW 26.19.001.

26.19.055 Payments for attendant services in cases of disability. Payments from any source, other than veterans' aid and attendance allowances or special medical compensation paid under 38 U.S.C. Sec. 314 (k) through (r),

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for services provided by an attendant in case of a disability when the disability necessitates the hiring of the services of an attendant shall be disclosed but shall not be included in gross income and shall not be a reason to deviate from the standard calculation. [1991 c 367 § 31.]

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.

26.19.065 Standards for establishing lower and upper limits on child support amounts. (1) **Limit at forty-five percent of a parent's net income.** Neither parent's total child support obligation may exceed forty-five percent of net income except for good cause shown. Good cause includes but is not limited to possession of substantial wealth, children with day care expenses, special medical need, educational need, psychological need, and larger families.

(2) **Income below six hundred dollars.** When combined monthly net income is less than six hundred dollars, a support order of not less than twenty-five dollars per child per month shall be entered for each parent. A parent's support obligation shall not reduce his or her net income below the need standard for one person established pursuant to RCW 74.04.770, except for the mandatory minimum payment of twenty-five dollars per child per month as required in this section or in cases where the court finds reasons for deviation under *section 32 of this act. This section shall not be construed to require monthly substantiation of income.

(3) **Income above five thousand and seven thousand dollars.** The economic table is presumptive for combined monthly net incomes up to and including five thousand dollars. When combined monthly net income exceeds five thousand dollars, support shall not be set at an amount lower than the presumptive amount of support set for combined monthly net incomes of five thousand dollars unless the court finds a reason to deviate below that amount. The economic table is advisory but not presumptive for combined monthly net incomes that exceed five thousand dollars. When combined monthly net income exceeds seven thousand dollars, the court may set support at an advisory amount of support set for combined monthly net incomes between five thousand and seven thousand dollars or the court may exceed the advisory amount of support set for combined monthly net incomes of seven thousand dollars upon written findings of fact. [1991 c 367 § 33.]

*Reviser's note: "Section 32 of this act" was vetoed by the governor.

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.

26.19.071 Standards for determination of income. (1) **Consideration of all income.** All income and resources of each parent's household shall be disclosed and considered by the court when the court determines the child support obligation of each parent. Only the income of the parents of the children whose support is at issue shall be calculated for purposes of calculating the basic support obligation. Income and resources of any other person shall not be included in calculating the basic support obligation.

(2) **Verification of income.** Tax returns for the preceding two years and current paystubs shall be provided

to verify income and deductions. Other sufficient verification shall be required for income and deductions which do not appear on tax returns or paystubs.

(3) **Income sources included in gross monthly income.** Except as specifically excluded in subsection (4) of this section, monthly gross income shall include income from any source, including:

- (a) Salaries;
- (b) Wages;
- (c) Commissions;
- (d) Deferred compensation;
- (e) Overtime;
- (f) Contract-related benefits;
- (g) Income from second jobs;
- (h) Dividends;
- (i) Interest;
- (j) Trust income;
- (k) Severance pay;
- (l) Annuities;
- (m) Capital gains;
- (n) Pension retirement benefits;
- (o) Workers' compensation;
- (p) Unemployment benefits;
- (q) Spousal maintenance actually received;
- (r) Bonuses;
- (s) Social security benefits; and
- (t) Disability insurance benefits.

(4) **Income sources excluded from gross monthly income.** The following income and resources shall be disclosed but shall not be included in gross income:

- (a) Income of a new spouse or income of other adults in the household;
- (b) Child support received from other relationships;
- (c) Gifts and prizes;
- (d) Aid to families with dependent children;
- (e) Supplemental security income;
- (f) General assistance; and
- (g) Food stamps.

Receipt of income and resources from aid to families with dependent children, supplemental security income, general assistance, and food stamps shall not be a reason to deviate from the standard calculation.

(5) **Determination of net income.** The following expenses shall be disclosed and deducted from gross monthly income to calculate net monthly income:

- (a) Federal and state income taxes;
- (b) Federal insurance contributions act deductions;
- (c) Mandatory pension plan payments;
- (d) Mandatory union or professional dues;
- (e) State industrial insurance premiums;
- (f) Court-ordered spousal maintenance to the extent actually paid;
- (g) Up to two thousand dollars per year in voluntary pension payments actually made if the contributions were made for the two tax years preceding the earlier of the (i) tax year in which the parties separated with intent to live separate and apart or (ii) tax year in which the parties filed for dissolution; and
- (h) Normal business expenses and self-employment taxes for self-employed persons. Justification shall be required for any business expense deduction about which there is disagreement.

Items deducted from gross income under this subsection shall not be a reason to deviate from the standard calculation.

(6) **Imputation of income.** The court shall impute income to a parent when the parent is voluntarily unemployed or voluntarily underemployed. The court shall determine whether the parent is voluntarily underemployed or voluntarily unemployed based upon that parent's work history, education, health, and age, or any other relevant factors. A court shall not impute income to a parent who is gainfully employed on a full-time basis, unless the court finds that the parent is voluntarily underemployed and finds that the parent is purposely underemployed to reduce the parent's child support obligation. Income shall not be imputed for an unemployable parent. In the absence of information to the contrary, a parent's imputed income shall be based on the median income of year-round full-time workers as derived from the United States bureau of census, current populations reports, or such replacement report as published by the bureau of census. [1991 sp.s. c 28 § 5.]

Severability—Effective date—Captions not law—1991 sp.s. c 28:
See notes following RCW 26.09.100.

26.19.075 Standards for deviation from the standard calculation. (1) Reasons for deviation from the standard calculation include but are not limited to the following:

(a) **Sources of income and tax planning.** The court may deviate from the standard calculation after consideration of the following:

(i) Income of a new spouse if the parent who is married to the new spouse is asking for a deviation based on any other reason. Income of a new spouse is not, by itself, a sufficient reason for deviation;

(ii) Income of other adults in the household if the parent who is living with the other adult is asking for a deviation based on any other reason. Income of the other adults in the household is not, by itself, a sufficient reason for deviation;

(iii) Child support actually received from other relationships;

(iv) Gifts;

(v) Prizes;

(vi) Possession of wealth, including but not limited to savings, investments, real estate holdings and business interests, vehicles, boats, pensions, bank accounts, insurance plans, or other assets;

(vii) Extraordinary income of a child; or

(viii) Tax planning considerations. A deviation for tax planning may be granted only if the child would not receive a lesser economic benefit due to the tax planning.

(b) **Nonrecurring income.** The court may deviate from the standard calculation based on a finding that a particular source of income included in the calculation of the basic support obligation is not a recurring source of income. Depending on the circumstances, nonrecurring income may include overtime, contract-related benefits, bonuses, or income from second jobs. Deviations for nonrecurring income shall be based on a review of the nonrecurring income received in the previous two calendar years.

(c) **Debt and high expenses.** The court may deviate from the standard calculation after consideration of the following expenses:

- (i) Extraordinary debt not voluntarily incurred;
- (ii) A significant disparity in the living costs of the parents due to conditions beyond their control;
- (iii) Special needs of disabled children; or
- (iv) Special medical, educational, or psychological needs of the children.

(d) **Residential schedule.** The court may deviate from the standard calculation if the child spends a significant amount of time with the parent who is obligated to make a support transfer payment. The court may not deviate on that basis if the deviation will result in insufficient funds in the household receiving the support to meet the basic needs of the child or if the child is receiving aid to families with dependent children. When determining the amount of the deviation, the court shall consider evidence concerning the increased expenses to a parent making support transfer payments resulting from the significant amount of time spent with that parent and shall consider the decreased expenses, if any, to the party receiving the support resulting from the significant amount of time the child spends with the parent making the support transfer payment.

(e) **Children from other relationships.** The court may deviate from the standard calculation when either or both of the parents before the court have children from other relationships to whom the parent owes a duty of support.

(i) The child support schedule shall be applied to the mother, father, and children of the family before the court to determine the presumptive amount of support.

(ii) Children from other relationships shall not be counted in the number of children for purposes of determining the basic support obligation and the standard calculation.

(iii) When considering a deviation from the standard calculation for children from other relationships, the court may consider only other children to whom the parent owes a duty of support. The court may consider court-ordered payments of child support for children from other relationships only to the extent that the support is actually paid.

(iv) When the court has determined that either or both parents have children from other relationships, deviations under this section shall be based on consideration of the total circumstances of both households. All child support obligations paid, received, and owed for all children shall be disclosed and considered.

(2) All income and resources of the parties before the court, new spouses, and other adults in the households shall be disclosed and considered as provided in this section. The presumptive amount of support shall be determined according to the child support schedule. Unless specific reasons for deviation are set forth in the written findings of fact and are supported by the evidence, the court shall order each parent to pay the amount of support determined by using the standard calculation.

(3) The court shall enter findings that specify reasons for any deviation or any denial of a party's request for any deviation from the standard calculation made by the court. The court shall not consider reasons for deviation until the court determines the standard calculation for each parent.

(4) When reasons exist for deviation, the court shall exercise discretion in considering the extent to which the factors would affect the support obligation.

(5) Agreement of the parties is not by itself adequate reason for any deviations from the standard calculation. [1991 sp.s. c 28 § 6.]

Severability—Effective date—Captions not law—1991 sp.s. c 28: See notes following RCW 26.09.100.

26.19.080 Allocation of child support obligation between parents. (1) The basic child support obligation derived from the economic table shall be allocated between the parents based on each parent's share of the combined monthly net income.

(2) Ordinary health care expenses are included in the economic table. Monthly health care expenses that exceed five percent of the basic support obligation shall be considered extraordinary health care expenses. Extraordinary health care expenses shall be shared by the parents in the same proportion as the basic child support obligation.

(3) Day care and special child rearing expenses, such as tuition and long-distance transportation costs to and from the parents for visitation purposes, are not included in the economic table. These expenses shall be shared by the parents in the same proportion as the basic child support obligation.

(4) The court may exercise its discretion to determine the necessity for and the reasonableness of all amounts ordered in excess of the basic child support obligation. [1990 1st ex.s. c 2 § 7.]

Effective dates—Severability—1990 1st ex.s. c 2: See notes following RCW 26.09.100.

26.19.090 Standards for postsecondary educational support awards. (1) The child support schedule shall be advisory and not mandatory for postsecondary educational support.

(2) When considering whether to order support for postsecondary educational expenses, the court shall determine whether the child is in fact dependent and is relying upon the parents for the reasonable necessities of life. The court shall exercise its discretion when determining whether and for how long to award postsecondary educational support based upon consideration of factors that include but are not limited to the following: Age of the child; the child's needs; the expectations of the parties for their children when the parents were together; the child's prospects, desires, aptitudes, abilities or disabilities; the nature of the postsecondary education sought; and the parents' level of education, standard of living, and current and future resources. Also to be considered are the amount and type of support that the child would have been afforded if the parents had stayed together.

(3) The child must enroll in an accredited academic or vocational school, must be actively pursuing a course of study commensurate with the child's vocational goals, and must be in good academic standing as defined by the institution. The court-ordered postsecondary educational support shall be automatically suspended during the period or periods the child fails to comply with these conditions.

(4) The child shall also make available all academic records and grades to both parents as a condition of receiving postsecondary educational support. Each parent shall

have full and equal access to the postsecondary education records as provided in RCW 26.09.225.

(5) The court shall not order the payment of postsecondary educational expenses beyond the child's twenty-third birthday, except for exceptional circumstances, such as mental, physical, or emotional disabilities.

(6) The court shall direct that either or both parents' payments for postsecondary educational expenses be made directly to the educational institution if feasible. If direct payments are not feasible, then the court in its discretion may order that either or both parents' payments be made directly to the child if the child does not reside with either parent. If the child resides with one of the parents the court may direct that the parent making the support transfer payments make the payments to the child or to the parent who has been receiving the support transfer payments. [1991 sp.s. c 28 § 7; 1990 1st ex.s. c 2 § 9.]

Severability—Effective date—Captions not law—1991 sp.s. c 28: See notes following RCW 26.09.100.

Effective dates—Severability—1990 1st ex.s. c 2: See notes following RCW 26.09.100.

26.19.100 Federal income tax exemptions. The parties may agree which parent is entitled to claim the child or children as dependents for federal income tax exemptions. The court may award the exemption or exemptions and order a party to sign the federal income tax dependency exemption waiver. The court may divide the exemptions between the parties, alternate the exemptions between the parties, or both. [1990 1st ex.s. c 2 § 10.]

Effective dates—Severability—1990 1st ex.s. c 2: See notes following RCW 26.09.100.

Chapter 26.20

FAMILY ABANDONMENT OR NONSUPPORT

(Formerly: Family desertion)

Sections

- 26.20.030 Family abandonment—Penalty.
- 26.20.035 Family nonsupport—Penalty.
- 26.20.071 Evidence—Spouse as witness.
- 26.20.080 Proof of wilfulness—Application of penalty provisions.

Child support enforcement: Chapter 26.18 RCW.

Child support registry: Chapter 26.23 RCW.

Council for the prevention of child abuse and neglect: Chapter 43.121 RCW.

Uniform reciprocal enforcement of support act: Chapter 26.21 RCW.

26.20.030 Family abandonment—Penalty. (1) Any person who has a child dependent upon him or her for care, education or support and deserts such child in any manner whatever with intent to abandon it is guilty of the crime of family abandonment.

(2) The crime of family abandonment is a class C felony under chapter 9A.20 RCW. [1984 c 260 § 26; 1973 1st ex.s. c 154 § 34; 1969 ex.s. c 207 § 2; 1955 c 249 § 1; 1953 c 255 § 1; 1943 c 158 § 1; 1913 c 28 § 1; Rem. Supp. 1943 § 6908. Prior: 1907 c 103 § 1, part.]

Severability—1984 c 260: See RCW 26.18.900.

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

Leaving children unattended in parked automobile: RCW 9.91.060.

(1992 Ed.)

26.20.035 Family nonsupport—Penalty. (1) Any person who is able to provide support, or has the ability to earn the means to provide support, and who:

(a) Wilfully omits to provide necessary food, clothing, shelter, or medical attendance to a child dependent upon him or her; or

(b) Wilfully omits to provide necessary food, clothing, shelter, or medical attendance to his or her spouse, is guilty of the crime of family nonsupport.

(2) The crime of family nonsupport is a gross misdemeanor under chapter 9A.20 RCW. [1984 c 260 § 27.]

Severability—1984 c 260: See RCW 26.18.900.

26.20.071 Evidence—Spouse as witness. In any proceedings relating to nonsupport or family desertion the laws attaching a privilege against the disclosure of communications between husband and wife shall be inapplicable and both husband and wife in such proceedings shall be competent witnesses to testify to any relevant matter, including marriage and parentage. [1963 c 10 § 1.]

Uniform criminal extradition act: Chapter 10.88 RCW.

Uniform reciprocal enforcement of support act—Spouse as witness: RCW 26.21.170.

26.20.080 Proof of wilfulness—Application of penalty provisions. Proof of the nonsupport of a spouse or of a child or children, or the omission to furnish necessary food, clothing, shelter, or medical attendance for a spouse, or for a child or children, is prima facie evidence that the nonsupport or omission to furnish food, clothing, shelter, or medical attendance is wilful. The provisions of RCW 26.20.030 and 26.20.035 are applicable regardless of the marital status of the person who has a child dependent upon him or her, and regardless of the nonexistence of any decree requiring payment of support or maintenance. [1984 c 260 § 28; 1973 1st ex.s. c 154 § 36; 1913 c 28 § 3; RRS § 6910. Formerly RCW 26.20.080 and 26.20.090.]

Severability—1984 c 260: See RCW 26.18.900.

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

Chapter 26.21

UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT

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Child support enforcement: Chapter 26.18 RCW.

Child support registry: Chapter 26.23 RCW.

Family abandonment or nonsupport: Chapter 26.20 RCW.

26.21.010 Definitions. As used in this chapter unless the context requires otherwise:

(1) "State" includes any state, territory or possession of the United States and the District of Columbia, the Commonwealth of Puerto Rico, and any foreign jurisdiction in which this or a substantially similar reciprocal law or procedure is in effect.

(2) "Initiating state" means any state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced.

(3) "Responding state" means any state in which any proceeding pursuant to the proceeding in the initiating state is or may be commenced.

(4) "Court" means the superior court of this state and when the context requires, means the court of any other state as defined in a substantially similar reciprocal law.

(5) "Law" includes both common and statute law.

(6) "Duty of support" includes any duty of support imposed or imposable by law, or by any court order, decree or judgment, whether interlocutory or final, whether incidental to a proceeding for divorce, separate maintenance or otherwise.

(7) "Obligor" means any person owing a duty of support.

(8) "Obligee" means any person to whom a duty of support is owed and a state or political subdivision thereof.

(9) "Governor" includes any person performing the functions of governor or the executive authority of any territory covered by the provisions of this chapter.

(10) "Support order" means any judgment, decree or order of support whether temporary or final, whether subject to modification, revocation or remission regardless of the kind of action in which it is entered.

(11) "Rendering state" means any state in which a support order is originally entered.

(12) "Registering court" means any court of this state in which the support order of the rendering state is registered.

(13) "Register" means to file in the registry of foreign support orders as required by the court.

(14) "Certification" shall be in accordance with the laws of the certifying state. [1972 ex.s. c 31 § 1; 1963 c 45 § 1; 1951 c 196 § 2.]

26.21.020 Remedies are additional. The remedies herein provided are in addition to and not in substitution for any other remedies. [1951 c 196 § 3.]

26.21.030 Residence, presence of obligee not material. Duties of support arising under the law of this state, when applicable under RCW 26.21.060, bind the obligor, present in this state, regardless of the presence or residence of the obligee. [1963 c 45 § 2; 1951 c 196 § 4.]

26.21.040 Extradition or surrender of obligor. The governor of this state (1) may demand from the governor of any other state the surrender of any person found in such other state who is charged in this state with the crime of failing to provide for the support of any person in this state and (2) may surrender on demand by the governor of any other state any person found in this state who is charged in such other state with the crime of failing to provide for the support of any person in such other state. The provisions for extradition of criminals not inconsistent herewith shall apply to any such demand although the person whose surrender is demanded was not in the demanding state at the time of the commission of the crime and although he had not fled therefrom. Neither the demand, the oath nor any proceedings for extradition pursuant to this section need state or show that the person whose surrender is demanded has fled from justice, or at the time of the commission of the crime was in the demanding or other state. [1963 c 45 § 3; 1951 c 196 § 5.]

Uniform act

on extradition: Chapter 10.88 RCW.

on fresh pursuit: Chapter 10.89 RCW.

26.21.050 Extradition or surrender of obligor—Conditions. (1) Before making the demand of the governor of any other state for the surrender of a person charged in this state with the crime of failing to provide for the support of any person, the governor of this state may require any prosecuting attorney of this state to satisfy him that at least sixty days prior thereto the obligee brought an action for support under this chapter, or that the bringing of an action would be of no avail.

(2) When under this or a substantially similar act, a demand is made upon the governor of this state by the governor of another state for the surrender of a person charged in the other state with the crime of failing to provide support, the governor may call upon any prosecuting attorney

to investigate or assist in investigating the demand, and to report to him whether any action for support has been brought under this chapter or would be effective: **PROVIDED**, That before honoring such demand the governor shall require proof of a duty of support arising from a support order based upon competent jurisdiction over the obligor.

(3) Except as is provided for in the proviso to subsection (2) of this section if an action for support would be effective and no action has been brought, the governor may delay honoring the demand for a reasonable time to permit prosecution of an action for support.

(4) If an action for support has been brought and the person demanded has prevailed in that action, the governor shall decline to honor the demand.

(5) If an action for support has been brought and pursuant thereto the person demanded is subject to a support order, the governor shall decline to honor the demand so long as the person demanded is complying with the support order. [1971 ex.s. c 46 § 30; 1963 c 45 § 4; 1951 c 196 § 6.]

Severability—Effective date—1971 ex.s. c 46: See RCW 10.88.920, 10.88.930.

26.21.060 Duty to support—Which law applies—Presumption of presence in responding state. Duties of support applicable under this law are those imposed or imposed under the laws of any state where the obligor was present during the period for which support is sought. The obligor is presumed to have been present in the responding state during the period for which support is sought until otherwise shown. [1963 c 45 § 5; 1951 c 196 § 7.]

26.21.065 Child support schedule. A determination of child support shall be based upon the child support schedule and standards adopted under *RCW 26.19.040. [1988 c 275 § 13.]

***Reviser's note:** RCW 26.19.040 was repealed by 1991 sp.s. c 28 § 8, effective September 1, 1991.

Effective dates—Severability—1988 c 275: See notes following RCW 26.19.001.

26.21.070 Subrogation by state or political subdivision for support furnished obligee—Continuing support. Whenever the state or a political subdivision thereof furnishes support to an obligee it has the same right to invoke the provisions hereof as the obligee to whom the support was furnished for the purposes of securing reimbursement of expenditures so made and of obtaining continuing support. [1963 c 45 § 6; 1951 c 196 § 8.]

26.21.080 Support and arrearages enforceable by action—Jurisdiction. All duties of support, including arrearages are enforceable by action irrespective of the relationship between the obligor and the obligee. Jurisdiction of all proceedings hereunder shall be vested in the superior court. [1963 c 45 § 7; 1951 c 196 § 9.]

26.21.090 Petition—Contents. The petition shall be verified and shall state the name and, so far as known to the petitioner, the address and circumstances of the respondent and his dependents for whom support is sought and all other

pertinent information. The petitioner may include in or attach to the petition any information which may help in locating or identifying the respondent, such as a photograph of the respondent, a description of any distinguishing marks of his person, other names and aliases by which he has been or is known, the name of his employer, his fingerprints, or social security number. [1963 c 45 § 8; 1951 c 196 § 10.]

26.21.092 Duty of prosecuting attorney to represent petitioner. The prosecuting attorney, upon the request of the court, shall represent the petitioner in any proceeding under this chapter. [1963 c 45 § 9.]

26.21.094 Petition on behalf of minor obligee. A petition on behalf of a minor obligee may be brought by a person having legal custody of the minor without appointment as guardian ad litem. [1963 c 45 § 10.]

26.21.100 Findings of court—Certificate—Transmittal. If the court of this state acting as an initiating state finds that the petition sets forth facts from which it may be determined that the respondent owes a duty of support and that a court of the responding state may obtain jurisdiction of the respondent or his property, it shall so certify and shall cause three copies of (1) the petition, (2) its certificate and (3) this chapter to be transmitted to the court in the responding state. If the name and address of such court is unknown and the responding state has an information agency comparable to that established in the initiating state it shall cause such copies to be transmitted to the state information agency or other proper official of the responding state, with a request that it forward them to the proper court, and that the court of the responding state acknowledge their receipt to the court of the initiating state. [1963 c 45 § 11; 1951 c 196 § 11.]

26.21.102 Responsibility for filing fees and court costs. There shall be no filing fee or other costs taxable to the obligee but a court of this state acting either as an initiating or responding state may in its discretion direct that any part of or all fees and costs incurred in this state, including without limitation by enumeration, fees for filing, service of process, seizure of property, and stenographic service of both petitioner and respondent or either, be paid by the obligor. [1963 c 45 § 12.]

26.21.104 Jurisdiction by arrest. When the court of this state, acting either as an initiating or responding state, has reason to believe that the respondent may flee the jurisdiction it may (1) as an initiating state request in its certificate that the court of the responding state obtain the body of the respondent by appropriate process if that be permissible under the law of the responding state, or (2) as a responding state, obtain the body of the respondent by appropriate process. [1963 c 45 § 13.]

26.21.106 Powers and duties of attorney general—Information agency. The attorney general is hereby designated as the state information agency under this chapter, and he shall (1) compile a list of the courts and their

addresses in this state having jurisdiction under this chapter and transmit the same to the state information agency of every other state which has adopted this or a substantially similar act, and (2) maintain a register of such lists received from other states and transmit copies thereof as soon as possible after receipt to every court in this state having jurisdiction under this chapter.

The attorney general shall appoint as information agent an assistant attorney general who shall represent the attorney general in the administration of this chapter.

The attorney general may, upon notice to the prosecuting attorney and order of the court, represent the petitioner in any proceeding arising under this chapter which involves a petition received from another state. [1963 c 45 § 14.]

26.21.110 Duties of court, responding—Duties of prosecuting attorney. (1) After the court of this state, acting as a responding state has received from the court of the initiating state the aforesaid copies, the clerk of the court shall docket the cause and notify the prosecuting attorney of his action. (2) It shall be the duty of the prosecuting attorney diligently to prosecute the case. He shall take all action necessary in accordance with the laws of this state to give the court jurisdiction of the respondent or his property and shall request the court to set a time and place for a hearing. [1963 c 45 § 15; 1951 c 196 § 12.]

Depositions: Title 5 RCW, also Rules of Court: CR 26 through 37.

26.21.112 Duty of prosecuting attorney to locate respondent or his property—Forwarding of documents when respondent in other jurisdiction—Notice to initiating court. (1) The prosecuting attorney shall, on his own initiative, use all means at his disposal to trace the respondent or his property and if, due to inaccuracies of the petition or otherwise, the court cannot obtain jurisdiction, the prosecuting attorney shall inform the court of what he has done and request the court to continue the case pending receipt of more accurate information or an amended petition from the court in the initiating state. (2) If the respondent or his property is not found in the county and the prosecuting attorney discovers by any means that the respondent or his property may be found in another county of this state or in another state he shall so inform the court and thereupon the clerk of the court shall forward the documents received from the court in the initiating state to the court in the other county or to a court in the other state or to the information agency or other proper official of the other state with a request that he forward the documents to the proper court. Thereupon both the court of the other county and any court of this state receiving the documents and the prosecuting attorney have the same powers and duties under this act as if the documents had been originally addressed to them. When the clerk of a court of this state retransmits documents to another court, he shall notify forthwith the court from which the documents came. (3) If the prosecuting attorney has no information as to the whereabouts of the obligor or his property he shall so inform the initiating court. [1963 c 45 § 16.]

26.21.114 Proceedings to accord type of support claimed. The court shall conduct proceedings under this

chapter in the manner prescribed by law for an action for enforcement of the type of duty of support claimed. [1963 c 45 § 17.]

26.21.116 Continuance when petitioner absent from responding state. If the petitioner is absent from the responding state and the respondent presents evidence which constitutes a defense, the court shall continue the case for further hearing and the submission of evidence by both parties. [1963 c 45 § 18.]

26.21.120 Order to support—Enforcement against property—Enforcement in counties other than where order issued. If the court of the responding state finds a duty of support, it may order the respondent to furnish support or reimbursement therefor and subject the property of the respondent to such order. The court and prosecuting attorney of any county where the obligor is present or has property have the same powers and duties to enforce the order as have those of the county where it was first issued. If enforcement is impossible or cannot be completed in the county where the order was issued, the prosecuting attorney shall transmit a certified copy of the order to the prosecuting attorney of any county where it appears that procedures to enforce payment of the amount due would be effective. The prosecuting attorney to whom the certified copy of the order is forwarded shall proceed with enforcement and report the results of the proceedings to the court first issuing the order. [1963 c 45 § 19; 1951 c 196 § 13.]

26.21.125 Orders—Compliance with RCW 26.23.050. Every court order or decree establishing a child support obligation shall be entered in compliance with RCW 26.23.050. [1987 c 435 § 23; 1986 c 138 § 2; 1984 c 260 § 22.]

Effective date—1987 c 435: See RCW 26.23.900.

Severability—1984 c 260: See RCW 26.18.900.

26.21.130 Orders—Transmittal to initiating state. The court of this state when acting as a responding state shall cause to be transmitted to the court of the initiating state a copy of all orders of support or for reimbursement therefor. [1963 c 45 § 20; 1951 c 196 § 14.]

26.21.140 Orders—Enforcement—Particular powers. In addition to the foregoing powers, the court of this state when acting as the responding state has the power to subject the respondent to such terms and conditions as the court may deem proper to assure compliance with its orders and in particular:

(1) To require the respondent to furnish recognizance in the form of a cash deposit or bond of such character and in such amount as the court may deem proper to assure payment of any amount required to be paid by the respondent;

(2) To require the respondent to make payments at specified intervals to the Washington state support registry and to report personally to the Washington state support registry at such times as may be deemed necessary;

(3) To punish the respondent who shall violate any order of the court to the same extent as is provided by law for contempt of the court in any other suit or proceeding cognizable by the court. [1987 c 435 § 24; 1963 c 45 § 21; 1951 c 196 § 15.]

Effective date—1987 c 435: See RCW 26.23.900.

Bail and appearance bonds: Chapter 10.19 RCW.

Contempts: Chapter 7.21 RCW.

Powers of courts and general provisions: Chapter 2.28 RCW.

Suretyship: Chapters 19.72, 48.28 RCW.

26.21.150 Payments—Transmittal—Statement. The court of this state when acting as a responding state shall have the following duties which shall be carried out through the Washington state support registry:

(1) Upon the receipt of a payment made by the respondent pursuant to any order of the court or otherwise, to transmit the same forthwith to the court of the initiating state, and

(2) Upon request to furnish to the court of the initiating state a certified statement of all payments made by the respondent. [1987 c 435 § 25; 1963 c 45 § 22; 1951 c 196 § 16.]

Effective date—1987 c 435: See RCW 26.23.900.

26.21.160 Payments—Receipt—Disbursement. The court of this state when acting as an initiating state shall have the duty which shall be carried out through the Washington state support registry to receive and disburse forthwith all payments made by the respondent or transmitted by the court of the responding state. [1987 c 435 § 26; 1963 c 45 § 23; 1951 c 196 § 17.]

Effective date—1987 c 435: See RCW 26.23.900.

26.21.170 Evidence—Spouse as witness. Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under this chapter. Husband and wife are competent witnesses and may be compelled to testify to any relevant matter, including marriage and parentage. [1963 c 45 § 24; 1951 c 196 § 18.]

Family desertion—Spouse as witness: RCW 26.20.071.

Privileged communications: RCW 5.60.060.

26.21.180 Proceedings not stayed by actions for divorce, separate maintenance, etc. No proceeding under this chapter shall be stayed because of the existence of a pending action for divorce, separate maintenance, annulment, dissolution, habeas corpus or custody proceeding. [1963 c 45 § 25.]

26.21.190 Multiple orders of support—Effect—Application of payments. No order of support issued by a court of this state when acting as a responding state shall supersede any other order of support but the amounts for a particular period paid pursuant to either order shall be credited against amounts accruing or accrued for the same period under both. [1963 c 45 § 26.]

26.21.200 Jurisdiction as to other proceedings not conferred. Participation in any proceeding under this chapter shall not confer upon any court jurisdiction of any of the parties thereto in any other proceeding. [1963 c 45 § 27.]

26.21.210 Intercounty proceedings. This chapter is applicable when both the petitioner and the respondent are in this state but in different counties. If the court of the county in which this petition is filed finds that the petition sets forth facts from which it may be determined that the respondent owes a duty of support and finds that a court of another county in this state may obtain jurisdiction of the respondent or his property, the clerk of the court shall send three copies of the petition and a certification of the findings to the court of the county in which the respondent or his property is found. The clerk of the court of the county receiving these copies shall notify the prosecuting attorney of their receipt. The prosecuting attorney and the court in the county to which the copies are forwarded shall then have duties corresponding to those imposed upon them when acting for the state as a responding state. [1963 c 45 § 28.]

26.21.220 Foreign support order, additional remedies of obligee—Duty of prosecuting attorney. If the duty of support is based on a foreign support order, the obligee has the additional remedies provided in the following sections and the prosecuting attorney shall, pursuant to the provisions of RCW 26.21.092, represent the petitioner upon the request of the court in asserting the remedies provided for therein. [1963 c 45 § 29.]

26.21.230 Foreign support order—Registration of order—Jurisdiction of court. The obligee, the prosecuting attorney, or the attorney general may register the foreign support order in a court of this state in the manner provided for in this chapter for the purpose of modification and enforcement of the support provisions. The court shall only have jurisdiction to consider the child support provisions of the order. The modification shall be pursuant to RCW 26.09.170 and 26.09.175. [1991 c 367 § 37; 1963 c 45 § 30.]

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.

26.21.240 Foreign support order, additional remedies of obligee—Clerk to file in registry. The clerk of the court shall maintain a registry of foreign support orders in which he shall file foreign support orders. [1963 c 45 § 31.]

26.21.250 Foreign support order, additional remedies of obligee—Petition for registration. The petition for registration shall be verified and shall set forth the amount remaining unpaid and a list of any other states in which the support order is registered and shall have attached to it a certified copy of the support order with all modifications thereof. The foreign support order is registered upon the filing of the petition subject only to subsequent order of confirmation. [1963 c 45 § 32.]

26.21.260 Foreign support order, additional remedies of obligee—Jurisdiction and procedure. The procedure to obtain jurisdiction of the person or property of the obligor shall be as provided in civil cases. The obligor may assert any defense available to a defendant in an action on a foreign judgment. If the obligor defaults, the court shall enter an order confirming the registered support order and determining the amounts remaining unpaid. If the obligor appears and a hearing is held, the court shall adjudicate the issues including the amounts remaining unpaid. [1963 c 45 § 33.]

26.21.270 Foreign support order, additional remedies of obligee—Effect and enforcement. The support order as confirmed shall have the same effect and may be enforced as if originally entered in the court of this state. The procedures for the enforcement thereof shall be as in civil cases, including the power to punish the respondent for contempt as in the case of other orders for payment of alimony, maintenance or support entered in this state. [1963 c 45 § 34.]

26.21.900 Purpose—1951 c 196. The purposes of this chapter are to improve and extend by reciprocal legislation the enforcement of duties of support and to make uniform the law with respect thereto. [1951 c 196 § 1.]

26.21.910 Severability—1963 c 45. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable. [1963 c 45 § 35.]

Chapter 26.23

STATE SUPPORT REGISTRY

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26.23.130 Notice to department of child support or maintenance orders.

26.23.900 Effective date—1987 c 435.

Authority of office of support enforcement to take support enforcement action against earnings within the state: RCW 74.20A.095.

26.23.010 Intent. The legislature recognizes the financial impact on custodial parents and children when child support is not received on time, or in the correct amount. The legislature also recognizes the burden placed upon the responsible parent and the second family when enforcement action must be taken to collect delinquent support.

It is the intent of the legislature to create a central Washington state support registry to improve the recordkeeping of support obligations and payments, thereby providing protection for both parties, and reducing the burden on employers by creating a single standardized process through which support payments are deducted from earnings.

It is also the intent of the legislature that child support payments be made through mandatory wage assignment or payroll deduction if the responsible parent becomes delinquent in making support payments under a court or administrative order for support.

To that end, it is the intent of the legislature to interpret all existing statutes and processes to give effect to, and to implement, one central registry for recording and distributing support payments in this state. [1987 c 435 § 1.]

26.23.020 Definitions. (1) The definitions contained in RCW 74.20A.020 shall be incorporated into and made a part of this chapter.

(2) "Support order" means a superior court order or administrative order, as defined in RCW 74.20A.020.

(3) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy support obligations, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW. Earnings shall specifically include all gain from capital, from labor, or from both combined, not including profit gained through sale or conversion of capital assets.

(4) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of an amount required by law to be withheld.

(5) "Employer" means any person or entity who pays or owes earnings in employment as defined in Title 50 RCW to the responsible parent including but not limited to the United States government, or any state or local unit of government.

(6) "Employee" means a person in employment as defined in Title 50 RCW to whom an employer is paying, owes or anticipates paying earnings as a result of services performed. [1987 c 435 § 2.]

26.23.030 Registry—Creation—Duties—Interest on unpaid child support—Record retention. (1) There is

created a Washington state support registry within the office of support enforcement as the agency designated in Washington state to administer the child support program under Title IV-D of the federal social security act. The registry shall:

(a) Account for and disburse all support payments received by the registry;

(b) Maintain the necessary records including, but not limited to, information on support orders, support debts, the date and amount of support due; the date and amount of payments; and the names, social security numbers, and addresses of the parties;

(c) Develop procedures for providing information to the parties regarding action taken by, and support payments collected and distributed by the registry;

(2) The office of support enforcement may assess and collect interest at the rate of twelve percent per year on unpaid child support that has accrued under any support order entered into the registry. This interest rate shall not apply to those support orders already specifying an interest assessment at a different rate.

(3) The secretary of social and health services shall adopt rules for the maintenance and retention of records of support payments and for the archiving and destruction of such records when the support obligation terminates or is satisfied. When a support obligation established under court order entered in a superior court of this state has been satisfied, a satisfaction of judgment form shall be prepared by the registry and filed with the clerk of the court in which the order was entered. [1989 c 360 § 6; 1988 c 275 § 18; 1987 c 435 § 3.]

Effective dates—Severability—1988 c 275: See notes following RCW 26.19.001.

26.23.035 Distribution of support received. (1) The department of social and health services shall adopt rules for the distribution of support money collected by the office of support enforcement. These rules shall:

(a) Comply with 42 U.S.C. Sec. 657;

(b) Direct the office of support enforcement to distribute support money within eight days of receipt, unless one of the following circumstances, or similar circumstances specified in the rules, prevents prompt distribution:

(i) The location of the custodial parent is unknown;

(ii) The support debt is in litigation;

(iii) The office of support enforcement cannot identify the responsible parent or the custodian;

(c) Provide for proportionate distribution of support payments if the responsible parent owes a support obligation or a support debt for two or more Title IV-D cases; and

(d) Authorize the distribution of support money, except money collected under 42 U.S.C. Sec. 664, to satisfy a support debt owed to the IV-D custodian before the debt owed to the state when the custodian stops receiving a public assistance grant.

(2) The office of support enforcement may distribute support payments to the payee under the support order or to another person who has lawful physical custody of the child or custody with the payee's consent. The payee may file an application for an adjudicative proceeding to challenge distribution to such other person. Prior to distributing

support payments to any person other than the payee, the registry shall:

(a) Obtain a written statement from the child's physical custodian, under penalty of perjury, that the custodian has lawful custody of the child or custody with the payee's consent;

(b) Mail to the responsible parent and to the payee at the payee's last known address a copy of the physical custodian's statement and a notice which states that support payments will be sent to the physical custodian; and

(c) File a copy of the notice with the clerk of the court that entered the original support order.

(3) If the Washington state support registry distributes a support payment to a person in error, the registry may obtain restitution by means of a set-off against future payments received on behalf of the person receiving the erroneous payment, or may act according to RCW 74.20A.270 as deemed appropriate. Any set-off against future support payments shall be limited to amounts collected on the support debt and ten percent of amounts collected as current support. [1991 c 367 § 38; 1989 c 360 § 34.]

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.

26.23.040 Employment reporting requirements—Exceptions—Penalties—Retention of records—Expiration. (Effective until July 1, 1993.)

(1) Except as provided in subsection (3) of this section, all employers doing business in the state of Washington, and to whom the department of employment security has assigned the standard industrial classification sic codes listed in subsection (2) of this section, shall report to the Washington state support registry:

(a) The hiring of any person who resides or works in this state to whom the employer anticipates paying earnings; and

(b) The rehiring or return to work of any employee who was laid off, furloughed, separated, granted a leave without pay, or terminated from employment.

(2) Employers in the standard industrial classifications that shall report to the Washington state support registry include:

(a) Construction industry sic codes: 15, building; and 16, other than building;

(b) Manufacturing industry sic code 37, transportation equipment;

(c) Wholesale trade industry sic codes: 73, business services, except sic code 7362 (temporary help supply services); and 80, health services.

(3) Employers are not required to report the hiring of any person who:

(a) Will be employed for less than one months duration;

(b) Will be employed sporadically so that the employee will be paid for less than three hundred fifty hours during a continuous six-month period; or

(c) Will have gross earnings less than three hundred dollars in every month.

The secretary of the department of social and health services may adopt rules to establish additional exemptions if needed to reduce unnecessary or burdensome reporting.

(4) Employers may report by mailing the employee's copy of the W-4 form, or other means authorized by the registry which will result in timely reporting.

(5) Employers shall submit reports within thirty-five days of the hiring, rehiring, or return to work of the employee. The report shall contain:

(a) The employee's name, address, social security number, and date of birth; and

(b) The employer's name, address, and employment security reference number or unified business identifier number.

(6) An employer who fails to report as required under this section shall be given a written warning for the first violation and shall be subject to a civil penalty of up to two hundred dollars per month for each subsequent violation after the warning has been given. All violations within a single month shall be considered a single violation for purposes of assessing the penalty. The penalty may be imposed and collected by the office of support enforcement under RCW 74.20A.270.

(7) The registry shall retain the information for a particular employee only if the registry is responsible for establishing, enforcing, or collecting a support obligation or debt of the employee. If the employee does not owe such an obligation or a debt, the registry shall not create a record regarding the employee and the information contained in the notice shall be promptly destroyed.

(8) This section shall expire on July 1, 1993. [1989 c 360 § 39; 1987 c 435 § 4.]

Effective dates—1989 c 360 §§ 9, 10, 16, and 39: See note following RCW 74.20A.060.

26.23.0401 Study of reporting program—Data, assistance to be provided—Report to legislature. The legislative budget committee shall conduct a study of the effectiveness of the reporting program contained in RCW 26.23.040. The study shall include a cost-benefit analysis using accepted accounting practices, control group comparisons of responsible parent work history and support payment history between industries and employers who report and those who do not, statistical detail by standard industrial code to describe (1) the percentage of reports made to the support registry, (2) the percentage of resulting matches with open support enforcement cases, and (3) the level of recovery of delinquent child support, a review of alternative or expedited reporting procedures utilizing new hire data from other public or private sources, control group comparisons regarding the responsible parent work history and support payment history using existing or expedited data sources compared with the employer reporting program, and recommendations as to expansion, termination, or enhancement of the reporting program.

The secretary of the department of social and health services and the commissioner of employment security shall provide necessary data and assistance to conduct the employer reporting program and the study and participate in the review of alternative reporting procedures. The department of social and health services shall reimburse the employment security department for necessary expenses subject to the approval of the office of financial management.

The committee shall prepare and submit a report to the appropriate committees of the house of representatives and senate by November 7, 1992. [1989 c 360 § 40.]

26.23.045 Support enforcement services provided—When. (1) The office of support enforcement, Washington state support registry, shall provide support enforcement services under the following circumstances:

(a) Whenever public assistance under RCW 74.20.330 is paid;

(b) Whenever a request for nonassistance support enforcement services under RCW 74.20.040(2) is received;

(c) Whenever a request for support enforcement services under RCW 74.20.040(3) is received;

(d) When a support order which contains language directing a responsible parent to make support payments to the Washington state support registry under RCW 26.23.050 is submitted;

(e) When a support order is forwarded to the Washington state support registry by the clerk of a superior court under RCW 26.23.050(5);

(f) When the obligor submits a support order or support payment to the Washington state support registry.

(2) The office of support enforcement shall continue to provide support enforcement services for so long as and under such conditions as the department shall establish by regulation or until the superior court enters an order approving an alternate payment plan as provided for in RCW 26.23.050(1). [1989 c 360 § 33.]

26.23.050 Support orders—Notice—Payments—Enforcement. (1) Except as provided in subsection (2) of this section, the superior court shall include in all superior court orders which establish or modify a support obligation:

(a) A provision which orders and directs that the responsible parent make all support payments to the Washington state support registry;

(b) A statement that a notice of payroll deduction may be issued or other income withholding action under chapter 26.18 RCW or chapter 74.20A RCW may be taken, without further notice to the responsible parent at any time after entry of the court order, unless:

(i) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding; or

(ii) The parties reach a written agreement that is approved by the court that provides for an alternate arrangement; and

(c) A statement that the receiving parent may be required to submit an accounting of how the support is being spent to benefit the child.

(2) The court may order the responsible parent to make payments directly to the person entitled to receive the payments or, for orders entered on or after July 1, 1990, direct that the issuance of a notice of payroll deduction or other income withholding actions be delayed until a support payment is past due if the court approves an alternate payment plan. The parties to the order must agree to such a plan and the plan must contain reasonable assurances that payments will be made in a regular and timely manner. The court may approve such a plan and modify or terminate the payroll deduction or other income withholding action at the time of entry of the order or at a later date upon motion and agreement of the parties. If the order directs payment to the person entitled to receive the payments instead of to the

Washington state support registry, the order shall include a statement that the order may be submitted to the registry if a support payment is past due. If the order directs delayed issuance of the notice of payroll deduction or other income withholding action, the order shall include a statement that such action may be taken, without further notice, at any time after a support payment is past due. The provisions of this subsection do not apply if the department is providing public assistance under Title 74 RCW.

(3) The office of administrative hearings and the department of social and health services shall require that all support obligations established as administrative orders include a provision which orders and directs that the responsible parent shall make all support payments to the Washington state support registry. All administrative orders shall also state that a notice of payroll deduction may be issued, or other income withholding action taken without further notice to the responsible parent at any time after entry of the order, unless:

(a) One of the parties demonstrates, and the presiding officer finds, that there is good cause not to require immediate income withholding; or

(b) The parties reach a written agreement that is approved by the presiding officer that provides for an alternate agreement.

(4) If the support order does not include the provision ordering and directing that all payments be made to the Washington state support registry and a statement that a notice of payroll deduction may be issued if a support payment is past due or at any time after the entry of the order, the office of support enforcement may serve a notice on the responsible parent stating such requirements and authorizations. Service may be by personal service or any form of mail requiring a return receipt.

(5) Every support order shall state:

(a) That payment shall be made to the Washington state support registry or in accordance with the alternate payment plan approved by the court;

(b) That a notice of payroll deduction may be issued or other income withholding action under chapter 26.18 RCW or chapter 74.20A RCW may be taken, without further notice to the responsible parent at any time after entry of an order by the court, unless:

(i) The court approves an alternate payment plan under subsection (2) of this section;

(ii) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding; or

(iii) The parties reach an alternate agreement that is approved by the court that provides for an alternate arrangement;

(c) The income of the parties, if known, or that their income is unknown and the income upon which the support award is based;

(d) The support award as a sum certain amount;

(e) The specific day or date on which the support payment is due;

(f) The social security number, residence address, and name of employer of the responsible parent;

(g) The social security number and residence address of the physical custodian except as provided in subsection (6) of this section;

(h) The names, dates of birth, and social security numbers, if any, of the dependent children;

(i) That the parties are to notify the Washington state support registry of any change in residence address;

(j) That any parent owing a duty of child support shall be obligated to provide health insurance coverage for his or her child if coverage that can be extended to cover the child is or becomes available to that parent through employment or is union-related as provided under RCW 26.09.105;

(k) That if proof of health insurance coverage is not provided within twenty days, the obligee or the department may seek direct enforcement of the coverage through the obligor's employer or union without further notice to the obligor as provided under chapter 26.18 RCW; and

(1) The reasons for not ordering health insurance coverage if the order fails to require such coverage.

(6) The physical custodian's address shall be omitted from an order entered under the administrative procedure act. A responsible parent whose support obligation has been determined by such administrative order may request the physical custodian's residence address by submission of a request for disclosure under RCW 26.23.120.

(7) The superior court clerk, the office of administrative hearings, and the department of social and health services shall, within five days of entry, forward to the Washington state support registry, a true and correct copy of all superior court orders or administrative orders establishing or modifying a support obligation which provide that support payments shall be made to the support registry. If a superior court order entered prior to January 1, 1988, directs the responsible parent to make support payments to the clerk, the clerk shall send a true and correct copy of the support order and the payment record to the registry for enforcement action when the clerk identifies that a payment is more than fifteen days past due. The office of support enforcement shall reimburse the clerk for the reasonable costs of copying and sending copies of court orders to the registry at the reimbursement rate provided in Title IV-D of the social security act.

(8) Receipt of a support order by the registry or other action under this section on behalf of a person or persons who are not recipients of public assistance is deemed to be a request for support enforcement services under RCW 74.20.040 to the fullest extent permitted under federal law.

(9) After the responsible parent has been ordered or notified to make payments to the Washington state support registry in accordance with subsection (1), (3), or (4) of this section, the responsible parent shall be fully responsible for making all payments to the Washington state support registry and shall be subject to payroll deduction or other income withholding action. The responsible parent shall not be entitled to credit against a support obligation for any payments made to a person or agency other than to the Washington state support registry. A civil action may be brought by the payor to recover payments made to persons or agencies who have received and retained support moneys paid contrary to the provisions of this section. [1991 c 367 § 39; 1989 c 360 § 15; 1987 c 435 § 5.]

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.

26.23.060 Notice of payroll deduction—Answer—Processing fee. (1) The office of support enforcement may issue a notice of payroll deduction:

(a) As authorized by a support order that contains the income withholding notice provisions in RCW 26.23.050 or a substantially similar notice; or

(b) After service of a notice containing an income withholding provision under this chapter or chapter 74.20A RCW.

(2) The office of support enforcement shall serve a notice of payroll deduction upon a responsible parent's employer or upon the employment security department for the state in possession of or owing any benefits from the unemployment compensation fund to the responsible parent pursuant to Title 50 RCW by personal service or by any form of mail requiring a return receipt.

(3) Service of a notice of payroll deduction upon an employer or employment security department requires the employer or employment security department to immediately make a mandatory payroll deduction from the responsible parent's unpaid disposable earnings or unemployment compensation benefits. The employer or employment security department shall thereafter deduct each pay period the amount stated in the notice divided by the number of pay periods per month. The payroll deduction each pay period shall not exceed fifty percent of the responsible parent's disposable earnings.

(4) A notice of payroll deduction for support shall have priority over any wage assignment, garnishment, attachment, or other legal process.

(5) The notice of payroll deduction shall be in writing and include:

(a) The name and social security number of the responsible parent;

(b) The amount to be deducted from the responsible parent's disposable earnings each month, or alternate amounts and frequencies as may be necessary to facilitate processing of the payroll deduction;

(c) A statement that the total amount withheld shall not exceed fifty percent of the responsible parent's disposable earnings; and

(d) The address to which the payments are to be mailed or delivered.

(6) An informational copy of the notice of payroll deduction shall be mailed to the last known address of the responsible parent by regular mail.

(7) An employer or employment security department that receives a notice of payroll deduction shall make immediate deductions from the responsible parent's unpaid disposable earnings and remit proper amounts to the Washington state support registry on each date the responsible parent is due to be paid.

(8) An employer, or the employment security department, upon whom a notice of payroll deduction is served, shall make an answer to the office of support enforcement within twenty days after the date of service. The answer shall confirm compliance and institution of the payroll deduction or explain the circumstances if no payroll deduction is in effect. The answer shall also state whether the responsible parent is employed by or receives earnings from the employer or receives unemployment compensation benefits from the employment security department, whether

the employer or employment security department anticipates paying earnings or employment [unemployment] compensation benefits and the amount of earnings. If the responsible parent is no longer employed, or receiving earnings from the employer, the answer shall state the present employer's name and address, if known. If the responsible parent is no longer receiving unemployment compensation benefits from the employment security department, the answer shall state the present employer's name and address, if known.

(9) The employer or employment security department may deduct a processing fee from the remainder of the responsible parent's earnings after withholding under the notice of payroll deduction, even if the remainder is exempt under RCW 26.18.090. The processing fee may not exceed: (a) Ten dollars for the first disbursement made to the Washington state support registry; and (b) one dollar for each subsequent disbursement to the registry.

(10) The notice of payroll deduction shall remain in effect until released by the office of support enforcement, the court enters an order terminating the notice and approving an alternate payment plan under RCW 26.23.050(2), or one year has expired since the employer has employed the responsible parent or has been in possession of or owing any earnings to the responsible parent or the employment security department has been in possession of or owing any unemployment compensation benefits to the responsible parent. [1991 c 367 § 40; 1989 c 360 § 32; 1987 c 435 § 6.]

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.

26.23.070 Payments to registry—Methods—Immunity from civil liability. (1) The employer or the employment security department may combine amounts withheld from the earnings of more than one responsible parent in a single payment to the Washington state support registry, listing separately the amount of the payment which is attributable to each individual.

(2) No employer nor employment security department that complies with a notice of payroll deduction under this chapter shall be civilly liable to the responsible parent for complying with a notice of payroll deduction under this chapter. [1991 c 367 § 41; 1987 c 435 § 7.]

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.

26.23.080 Certain acts by employers prohibited—Penalties. No employer shall discipline or discharge an employee or refuse to hire a person by reason of an action authorized in this chapter. If an employer disciplines or discharges an employee or refuses to hire a person in violation of this section, the employee or person shall have a cause of action against the employer. The employer shall be liable for double the amount of lost wages and any other damages suffered as a result of the violation and for costs and reasonable attorney fees, and shall be subject to a civil penalty of not more than two thousand five hundred dollars for each violation. The employer may also be ordered to hire, rehire, or reinstate the aggrieved individual. [1987 c 435 § 9.]

26.23.090 Employer liability for failure or refusal to respond or remit earnings. (1) The employer shall be liable to the Washington state support registry for one hundred percent of the amount of the support debt, or the amount of support moneys which should have been withheld from the employee's earnings, whichever is the lesser amount, if the employer:

(a) Fails or refuses, after being served with a notice of payroll deduction, to deduct and promptly remit from unpaid earnings the amounts of money required in the notice;

(b) Fails or refuses to submit an answer to the notice of payroll deduction after being served; or

(c) Is unwilling to comply with the other requirements of RCW 26.23.060.

(2) Liability may be established in superior court or may be established pursuant to RCW 74.20A.270. Awards in superior court and in actions pursuant to RCW 74.20A.270 shall include costs, interest under RCW 19.52.020 and 4.56.110, and reasonable attorney fees and staff costs as a part of the award. Debts established pursuant to this section may be collected pursuant to chapter 74.20A RCW utilizing any of the remedies contained in that chapter. [1990 c 165 § 2; 1987 c 435 § 10.]

26.23.100 Motion to quash, modify, or terminate payroll deduction—Grounds for relief. (1) The responsible parent subject to a payroll deduction pursuant to this chapter, may file a motion in superior court to quash, modify, or terminate the payroll deduction.

(2) Except as provided in subsections (4) and (5) of this section, the court may grant relief only upon a showing: (a) That the payroll deduction causes extreme hardship or substantial injustice; or (b) that the support payment was not past due under the terms of the order when the notice of payroll deduction was served on the employer.

(3) Satisfaction by the obligor of all past due payments subsequent to the issuance of the notice of payroll deduction is not grounds to quash, modify, or terminate the notice of payroll deduction.

(4) If a notice of payroll deduction has been in operation for twelve consecutive months and the obligor's support obligation is current, upon motion of the obligor, the court may order the office of support enforcement to terminate the payroll deduction, unless the obligee can show good cause as to why the payroll deduction should remain in effect.

(5) Subsection (2) of this section shall not prevent the court from ordering an alternative payment plan as provided under RCW 26.23.050(2). [1991 c 367 § 42; 1989 c 360 § 31; 1987 c 435 § 8.]

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.

26.23.110 Procedures when amount of support obligation needs to be determined—Notice—Adjudicative proceeding (as amended by 1989 c 175). The department shall establish, by regulation, a process that may be utilized when a support order does not state the obligation to pay current and future support as a fixed dollar amount, or if there is a dispute about the amount of the support debt owed under a support order. This process is authorized in order to facilitate enforcement of the support order, and is intended to implement and effectuate the terms of the order rather than to modify those terms.

The process shall provide for a notice to be served on the responsible parent by personal service or any form of mailing requiring a return receipt. The notice shall contain an initial finding of the amount of current and

future support that should be paid and/or the amount of the support debt owed under the support order. ~~((A copy of the notice of hearing shall be mailed to the person to whom support is payable under the support order.))~~

The notice shall direct the responsible parent to appear and show cause ~~((at a hearing held by the department))~~ in an adjudicative proceeding governed by chapter 34.05 RCW, the Administrative Procedure Act, why the amount of current and future support to be paid and/or the amount of the support debt is incorrect and should not be ordered. The notice shall provide that the responsible parent has twenty days from the date of the service of the notice to ~~((request an administrative hearing))~~ file an application for an adjudicative proceeding or initiate an action in superior court. If the responsible parent does not ~~((request a hearing))~~ file an application for an adjudicative proceeding or initiate an action in superior court, the amount of current and future support and/or the amount of the support debt stated in the notice shall be subject to collection action.

If the responsible parent does not initiate such an action in superior court, and serve notice of the action on the department within the twenty-day period, the responsible parent shall be deemed to have made an election of remedies and shall be required to exhaust administrative remedies under this chapter with judicial review available as provided for in chapter 34.05 RCW ((34.04.130)).

The ~~((administrative hearing))~~ adjudicative proceeding shall be ~~((a contested hearing under chapter 34.04 RCW and shall be conducted in accordance with the rules and regulations))~~ held pursuant to this section, chapter 34.05 RCW, and rules adopted by the department ((and the office of administrative hearings)). A copy of the notice of hearing shall be mailed to the person to whom support is payable under the support order.

An ~~((administrative))~~ adjudicative order entered in accordance with this section shall state the basis, rationale, or formula upon which the amounts established in the order were based. The amount of current and future support and/or the amount of the support debt determined under this section shall be subject to collection under this chapter and other applicable state statutes.

The regulation shall also provide for an annual review of the support order if either the office of support enforcement or the responsible parent requests such a review. [1989 c 175 § 77; 1987 c 435 § 11.]

Effective date—1989 c 175: See note following RCW 34.05.010.

26.23.110 Procedures when amount of support obligation needs to be determined—Notice—Adjudicative proceeding (as amended by 1989 c 360). (1) The department ~~((shall establish, by regulation, a process that may be utilized))~~ may serve a notice of support owed on a responsible parent when a support order:

(a) Does not state the ((obligation to pay)) current and future support obligation as a fixed dollar amount ((or if there is a dispute about the amount of the support debt owed under a support order. This process is authorized in order to)); or

(b) Contains an escalation clause or adjustment provision for which additional information not contained in the order is needed to determine the amount of the accrued debt and/or the current and future obligation.

(2) The notice of support owed shall facilitate enforcement of the support order ((;)) and ((is intended to)) implement and effectuate the terms of the order, rather than ((to)) modify those terms. When the office of support enforcement issues a notice of support owed, the office shall inform the payee under the order.

(3) The ((process)) notice of support owed shall ((provide for a notice to)) be served on ((the)) a responsible parent by personal service or any form of mailing requiring a return receipt. The notice shall contain an initial finding of the amount of current and future support that should be paid and/or the amount of the support debt owed under the support order. ((A copy of the notice of hearing shall be mailed to the person to whom support is payable under the support order.))

(4) A responsible parent who objects to the amounts stated in the notice has twenty days from the date of the service of the notice to file an application for an adjudicative proceeding or initiate an action in superior court.

(5) The notice shall ((direct the responsible parent)) state that the parent may:

(a) File an application for an adjudicative proceeding in which the parent will be required to appear and show cause ((at a hearing held by the department)) why the amount ((of)) stated in the notice for current and future support ((to be paid)) and/or the ((amount of the)) accrued support debt is incorrect and should not be ordered; or

(b) Initiate an action in superior court.

~~((The notice shall provide that the responsible parent has twenty days from the date of the service of the notice to request an administrative hearing or initiate an action in superior court. If the responsible parent does not request a hearing or initiate an action in superior court, the amount of current and future support and/or the amount of the support debt stated in the notice shall be subject to collection action.))~~

~~(6) If the parent does not file an application for an adjudicative proceeding or initiate an action in superior court, the amount of current and future support and/or the support debt stated in the notice shall become final and subject to collection action.~~

~~(7) If an adjudicative proceeding is requested, the department shall mail a copy of the notice of hearing to the payee under the support order at the payee's last known address. A payee who appears for the hearing shall be allowed to participate. Participation includes, but is not limited to, giving testimony, presenting evidence, being present for or listening to other testimony offered in the proceeding, and offering rebuttal to other testimony. Nothing in this section shall preclude the administrative law judge from limiting participation to preserve the confidentiality of information protected by law.~~

~~(8) If the responsible parent does not initiate ((such)) an action in superior court, and serve notice of the action on the department within the twenty-day period, the responsible parent shall be deemed to have made an election of remedies and shall be required to exhaust administrative remedies under this chapter with judicial review available as provided for in RCW ((34.04.130)) 34.05.510 through 34.05.598.~~

~~((The administrative hearing shall be a contested hearing under chapter 34.04 RCW and shall be conducted in accordance with the rules and regulations adopted by the department and the office of administrative hearings. A copy of the notice of hearing shall be mailed to the person to whom support is payable under the support order.))~~

~~(9) An administrative order entered in accordance with this section shall state the basis, rationale, or formula upon which the amounts established in the order were based. The amount of current and future support and/or the amount of the support debt determined under this section shall be subject to collection under this chapter and other applicable state statutes.~~

~~(10) The ((regulation)) department shall also provide for:~~

~~(a) An annual review of the support order if either the office of support enforcement or the responsible parent requests such a review; and~~

~~(b) A late hearing if the responsible parent fails to file an application for an adjudicative proceeding in a timely manner under this section.~~

~~(11) If an annual review or late hearing is requested under subsection (10) of this section, the department shall mail a copy of the notice of hearing to the payee at the payee's last known address. A payee who appears for the proceeding shall be allowed to participate. Participation includes, but is not limited to, giving testimony, presenting evidence, being present for or listening to other testimony offered in the proceeding, and offering rebuttal to other testimony. Nothing in this section shall preclude the administrative law judge from limiting participation to preserve the confidentiality of information protected by law. [1989 c 360 § 16; 1987 c 435 § 11.]~~

Reviser's note: RCW 26.23.110 was amended twice during the 1989 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Effective dates—1989 c 360 §§ 9, 10, 16, and 39: See note following RCW 74.20A.060.

26.23.120 Information and records—Confidentiality—Disclosure—Rules—Penalties. (1) Any information or records concerning individuals who owe a support obligation or for whom support enforcement services are being provided which are obtained or maintained by the Washington state support registry, the office of support enforcement, or under chapter 74.20 RCW shall be private and confidential and shall only be subject to public disclosure as provided in subsection (2) of this section.

(2) The secretary of the department of social and health services shall adopt rules which specify the individuals or agencies to whom this information and these records may be disclosed, the purposes for which the information may be disclosed, and the procedures to obtain the information or

records. The rules adopted under this section shall provide for disclosure of the information and records, under appropriate circumstances, which shall include, but not be limited to:

(a) When authorized or required by federal statute or regulation governing the support enforcement program;

(b) To the person the subject of the records or information, unless the information is exempt from disclosure under RCW 42.17.310;

(c) To government agencies, whether state, local, or federal, and including law enforcement agencies, prosecuting agencies, and the executive branch, if the records or information are needed for child support enforcement purposes;

(d) To the parties in a judicial or adjudicative proceeding upon a specific written finding by the presiding officer that the need for the information outweighs any reason for maintaining the privacy and confidentiality of the information or records;

(e) To private persons or organizations if the disclosure is necessary to permit private contracting parties to assist in the management and operation of the department;

(f) Disclosure of address and employment information to the parties to a court order for support for purposes relating to the establishment, enforcement, or modification of the order;

(g) Disclosure of information or records when necessary to the efficient administration of the support enforcement program or to the performance of functions and responsibilities of the support registry and the office of support enforcement as set forth in state and federal statutes; or

(h) Disclosure of the information or records when authorized under RCW 74.04.060.

(3) Prior to disclosing the physical custodian's address under subsection (1)(f) of this section, a notice shall be mailed, if appropriate under the circumstances, to the physical custodian at the physical custodian's last known address. The notice shall advise the physical custodian that a request for disclosure has been made and will be complied with unless the department receives a copy of a court order which enjoins the disclosure of the information or restricts or limits the requesting party's right to contact or visit the physical custodian or the child, or the custodial parent requests a hearing to contest the disclosure. The administrative law judge shall determine whether the address of the custodial parent should be disclosed based on the same standard as a claim of "good cause" as defined in 42 U.S.C. Sec. 602 (a)(26)(c).

(4) Nothing in this section shall be construed as limiting or restricting the effect of *RCW 42.17.260(5). Nothing in this section shall be construed to prevent the disclosure of information and records if all details identifying an individual are deleted or the individual consents to the disclosure.

(5) It shall be unlawful for any person or agency in violation of this section to solicit, publish, disclose, receive, make use of, or to authorize, knowingly permit, participate in or acquiesce in the use of any lists of names for commercial or political purposes or the use of any information for purposes other than those purposes specified in this section. A violation of this section shall be a gross misdemeanor as provided in chapter 9A.20 RCW. [1989 c 360 § 17; 1989 c 175 § 78; 1987 c 435 § 12.]

Reviser's note: (1) This section was amended by 1989 c 175 § 78 and by 1989 c 360 § 17, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

*(2) RCW 42.17.260 was amended by 1989 c 175 § 36, and the previous subsection (5) was renumbered as subsection (6). This section was subsequently amended by 1992 c 139 § 3, and the previous subsection (5) is now subsection (7).

Effective date—1989 c 175: See note following RCW 34.05.010.

26.23.130 Notice to department of child support or maintenance orders. The department shall be given twenty calendar days prior notice of the entry of any final order and five days prior notice of the entry of any temporary order in any proceeding involving child support or maintenance if the department has a financial interest based on an assignment of support rights under RCW 74.20.330 or the state has a subrogated interest under RCW 74.20A.030. Service of this notice upon the department shall be by personal service on, or mailing by any form of mail requiring a return receipt to, the office of the attorney general. The department shall not be entitled to terms for a party's failure to serve the department within the time requirements for this section, unless the department proves that the party knew that the department had an assignment of support rights or a subrogated interest and that the failure to serve the department was intentional. [1991 c 367 § 43.]

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.

26.23.900 Effective date—1987 c 435. Sections 1 through 3 and 5 through 36 of this act shall take effect January 1, 1988. [1987 c 435 § 37.]

Reviser's note: For codification of 1987 c 435, see Codification Tables, Volume 0.

Chapter 26.26 UNIFORM PARENTAGE ACT

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26.26.010 "Parent and child relationship" defined.

As used in this chapter, "parent and child relationship" means the legal relationship existing between a child and his natural or adoptive parents incident to which the law confers or imposes rights, privileges, duties, and obligations. It includes the mother and child relationship and the father and child relationship. [1975-'76 2nd ex.s. c 42 § 2.]

26.26.020 Relationship not dependent on marriage.

The parent and child relationship extends equally to every child and to every parent, regardless of the marital status of the parents. [1975-'76 2nd ex.s. c 42 § 3.]

26.26.030 How parent and child relationship established. The parent and child relationship between a child and

(1) the natural mother may be established by proof of her having given birth to the child, or under this chapter;

(2) the natural father may be established under this chapter;

(3) an adoptive parent may be established by proof of adoption or under the provisions of chapter 26.33 RCW. [1985 c 7 § 86; 1975-'76 2nd ex.s. c 42 § 4.]

26.26.040 Presumption of paternity. (1) A man is presumed to be the natural father of a child for all intents and purposes if:

(a) He and the child's natural mother are or have been married to each other and the child is born during the marriage, or within three hundred days after the marriage is terminated by death, annulment, declaration of invalidity, divorce, or dissolution, or after a decree of separation is entered by a court; or

(b) Before the child's birth, he and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and the child is born within three hundred days after the termination of cohabitation;

(c) After the child's birth, he and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law,

although the attempted marriage is or could be declared invalid, and

(i) He has acknowledged his paternity of the child in writing filed with the registrar of vital statistics,

(ii) With his consent, he is named as the child's father on the child's birth certificate, or

(iii) He is obligated to support the child under a written voluntary promise or by court order;

(d) While the child is under the age of majority, he receives the child into his home and openly holds out the child as his child;

(e) He acknowledges his paternity of the child pursuant to RCW 70.58.080 or in a writing filed with the state office of vital statistics, which shall promptly inform the mother of the filing of the acknowledgment, if she does not dispute the acknowledgment within a reasonable time after being informed thereof, in a writing filed with the registrar of vital statistics. In order to enforce rights of residential time, custody, and visitation, a man presumed to be the father as a result of filing a written acknowledgement must seek appropriate judicial orders under this title; or

(f) The United States immigration and naturalization service made or accepted a determination that he was the father of the child at the time of the child's entry into the United States and he had the opportunity at the time of the child's entry into the United States to admit or deny the paternal relationship.

(2) A presumption under this section may be rebutted in an appropriate action only by clear, cogent, and convincing evidence. If two or more presumptions arise which conflict with each other, the presumption which on the facts is founded on the weightier considerations of policy and logic controls. The presumption is rebutted by a court decree establishing paternity of the child by another man. [1990 c 175 § 2; 1989 c 55 § 4; 1975-'76 2nd ex.s. c 42 § 5.]

26.26.050 Artificial insemination. (1) If, under the supervision of a licensed physician and with the consent of her husband, a wife is inseminated artificially with semen donated by a man not her husband, the husband is treated in law as if he were the natural father of a child thereby conceived. The husband's consent must be in writing and signed by him and his wife. The physician shall certify their signatures and the date of the insemination, and file the husband's consent with the registrar of vital statistics, where it shall be kept confidential and in a sealed file.

(2) The donor of semen provided to a licensed physician for use in artificial insemination of a woman other than the donor's wife is treated in law as if he were not the natural father of a child thereby conceived unless the donor and the woman agree in writing that said donor shall be the father. The agreement must be in writing and signed by the donor and the woman. The physician shall certify their signatures and the date of the insemination and file the agreement with the registrar of vital statistics, where it shall be kept confidential and in a sealed file.

(3) The failure of the licensed physician to perform any administrative act required by this section shall not affect the father and child relationship. All papers and records pertaining to the insemination, whether part of the permanent record of a court or of a file held by the supervising physi-

cian or elsewhere, are subject to inspection only in exceptional cases upon an order of the court for good cause shown. [1975-'76 2nd ex.s. c 42 § 6.]

26.26.060 Determination of father and child relationship—Who may bring action—When action may be brought. (1)(a) A child, a child's natural mother, a man alleged or alleging himself to be the father, a child's guardian, a child's personal representative, the state of Washington, or any interested party may bring an action at any time for the purpose of declaring the existence or nonexistence of the father and child relationship.

(b) A man presumed to be a child's father under RCW 26.26.040 may bring an action for the purpose of declaring the nonexistence of the father and child relationship only if the action is brought within a reasonable time after obtaining knowledge of relevant facts. After the presumption has been rebutted, paternity of the child by another man may be determined in the same action, if he has been made a party.

(2) In an action brought by the state pursuant to this chapter, the state may be represented by either the prosecuting attorney for the county where the action is brought or by the attorney general.

(3) Regardless of its terms, no agreement between an alleged or presumed father and the mother or child, shall bar an action under this section.

(4) If an action under this section is brought before the birth of the child, all proceedings may be stayed until after the birth, except service of process and discovery, including the taking of depositions to perpetuate testimony.

(5) Actions under this chapter may be maintained as to any child, whether born before or after the enactment of this chapter. [1983 1st ex.s. c 41 § 5; 1975-'76 2nd ex.s. c 42 § 7.]

Severability—1983 1st ex.s. c 41: See note following RCW 26.09.060.

26.26.065 Mandatory use of approved forms. (1) Effective January 1, 1992, a party shall not file any pleading with the clerk of the court in an action commenced under this chapter unless on forms approved by the administrator for the courts.

(2) The parties shall comply with requirements for submission to the court of forms as provided in RCW 26.18.220. [1992 c 229 § 7; 1990 1st ex.s. c 2 § 28.]

Effective dates—Severability—1990 1st ex.s. c 2: See notes following RCW 26.09.100.

26.26.070 Determination of father and child relationship—Petition to arrest alleged father—Warrant of arrest—Issuance—Grounds—Hearing. (1) The petitioner in an action to determine the existence of the father and child relationship may petition the court to issue a warrant for the arrest of the alleged father at any stage of the proceeding including after a judgment has been entered. When such petition is filed, the court shall examine on oath the petitioner and any witnesses the court may require, take their statements, and cause the statements and the petition to be subscribed under oath by the person or persons making such.

(2) If it appears from such evidence that there is reasonable cause to believe that the father and child relationship exists as alleged in the petition the court shall issue a warrant for the arrest of the alleged father: PROVIDED, That in the case of a prejudgment petition, a warrant shall only be issued if there is reasonable cause to believe that: (a) The alleged father will not appear in response to a summons; or (b) the summons cannot be served; or (c) the alleged father is likely to leave the jurisdiction; or (d) the safety of the petitioner would be endangered if the warrant did not issue.

(3) In the case of a petition for the arrest of a person pursuant to the continuing jurisdiction of the court described in RCW 26.26.160 or as an aid to enforcement of a judgment and order previously rendered under this chapter, a warrant shall issue only if there is reasonable cause to believe that: (a) The respondent is delinquent in complying with court's order and conceals himself or has absconded or absented himself from his usual place of abode in this state so that ordinary process of law may not be served upon him; or (b) the respondent has or is about to remove any of his property from this state with the intent to delay or otherwise frustrate the court's order; or (c) the respondent has or is about to assign, secrete, convert, or dispose of any of his property with the intent to delay or otherwise frustrate the court's order.

(4) Any person arrested pursuant to this section shall be entitled upon request to a preliminary hearing as soon as practically possible, and in any event not later than the close of business of the next judicial day following the day of arrest. The court may, for good cause stated, enlarge the time prior to preliminary hearing.

(5) If a person arrested pursuant to this section is not afforded a preliminary hearing upon request as required by subsection (4) of this section, the court shall order such person brought before the court forthwith, and in default thereof, the court shall order his immediate release unless good cause to the contrary be shown.

(6) Any person arrested pursuant to this section shall at this first court appearance be ordered released on his personal recognizance pending trial, unless the court determines that such recognizance will not reasonably assure (a) his appearance, when required, or (b) compliance with the court's order. When such determination is made the court shall order the person returned to custody or impose such other conditions as will reasonably assure his appearance or compliance with the court's order. [1975-'76 2nd ex.s. c 42 § 8.]

26.26.080 Jurisdiction—Venue. (1) The superior courts have jurisdiction of an action brought under this chapter. The action may be joined with an action for divorce, dissolution, annulment, declaration of invalidity, separate maintenance, filiation, support, or any other civil action in which paternity is an issue including proceedings in juvenile court.

(2) A person who has sexual intercourse in this state thereby submits to the jurisdiction of the courts of this state as to an action brought under this chapter with respect to a child who may have been conceived by that act of intercourse. In addition to any other method provided by statute,

personal jurisdiction may be acquired by personal service of summons outside this state or by service in accordance with RCW 4.28.185 as now or hereafter amended.

(3) The action may be brought in the county in which the child or the alleged father resides or is found or, if the father is deceased, in which proceedings for probate of his estate have been or could be commenced. [1975-'76 2nd ex.s. c 42 § 9.]

26.26.090 Parties. (1) The child shall be made a party to the action. If the child is a minor, the child shall be represented by the child's general guardian or a guardian ad litem appointed by the court subject to RCW 74.20.310. The child's mother or father may not represent the child as guardian or otherwise. The natural mother, each man presumed to be the father under RCW 26.26.040, and a man or men alleged to be the natural father shall be made parties or, if not subject to the jurisdiction of the court, shall, if possible, be given actual notice of the action and an opportunity to be heard in a manner as the court may prescribe.

(2) Any party may cause to be joined as additional parties other men alleged to be the father of the child or any other person necessary for a full adjudication of the issues.

(3) The failure or inability to join as a party an alleged or presumed father does not deprive the court of jurisdiction to adjudicate some or all of the issues based on the evidence and parties available to it.

(4) If more than one party is alleged to be the father of the child, the default of a party shall not preclude the court from finding any other party to be the father of the child. [1984 c 260 § 31; 1983 1st ex.s. c 41 § 6; 1975-'76 2nd ex.s. c 42 § 10.]

Severability—1984 c 260: See RCW 26.18.900.

Severability—1983 1st ex.s. c 41: See note following RCW 26.09.060.

26.26.100 Blood tests. (1) The court may, and upon request of a party shall, require the child, mother, and any alleged father who has been made a party to submit to blood tests. If an alleged father objects to a proposed order requiring him to submit to paternity blood tests, the court may require the party making the allegation of possible paternity to provide sworn testimony, by affidavit or otherwise, stating the facts upon which the allegation is based. The court shall order blood tests if it appears that a reasonable possibility exists that the requisite sexual contact occurred. The tests shall be performed by an expert in paternity blood testing appointed by the court. The expert's verified report identifying the blood characteristics observed is admissible in evidence in any hearing or trial in the parentage action, if (a) the alleged or presumed father has had the opportunity to gain information about the security, validity, and interpretation of the tests and the qualifications of any experts, and (b) the report is accompanied by an affidavit from the expert which describes the expert's qualifications as an expert and analyzes and interprets the results. Verified documentation of the chain of custody of the blood samples tested is admissible to establish the chain of custody. The court may consider published sources as aids to interpretation of the test results.

(2) The court, upon request by a party, shall order that additional blood tests be performed by the same or other experts qualified in paternity blood testing, if the party requesting additional tests advances the full costs of the additional testing within a reasonable time. The court may order additional testing without requiring that the requesting party advance the costs only if another party agrees to advance the costs or if the court finds, after hearing, that (a) the requesting party is indigent, and (b) the laboratory performing the initial tests recommends additional testing or there is substantial evidence to support a finding as to paternity contrary to the initial blood test results. The court may later order any other party to reimburse the party who advanced the costs of additional testing for all or a portion of the costs.

(3) In all cases, the court shall determine the number and qualifications of the experts. [1984 c 260 § 32; 1983 1st ex.s. c 41 § 7; 1975-'76 2nd ex.s. c 42 § 11.]

Severability—1984 c 260: See RCW 26.18.900.

Severability—1983 1st ex.s. c 41: See note following RCW 26.09.060.

26.26.110 Evidence relating to paternity. Evidence relating to paternity may include:

(1) Evidence of sexual intercourse between the mother and alleged father at any possible time of conception;

(2) An expert's opinion concerning the statistical probability of the alleged father's paternity based upon the duration of the mother's pregnancy;

(3) An expert's opinion concerning the impossibility or the statistical probability of the alleged father's paternity based upon blood test results;

(4) Medical or anthropological evidence relating to the alleged father's paternity of the child based on tests performed by experts. If a man has been identified as a possible father of the child, the court may, and upon request of a party shall, require the child, the mother, and the man to submit to appropriate tests; and

(5) All other evidence relevant to the issue of paternity of the child. [1984 c 260 § 33; 1975-'76 2nd ex.s. c 42 § 12.]

Severability—1984 c 260: See RCW 26.18.900.

26.26.120 Civil action—Testimony—Evidence—Jury. (1) An action under this chapter is a civil action governed by the rules of civil procedures. The mother of the child and the alleged father are competent to testify and may be compelled to testify.

(2) Upon refusal of any witness, including a party, to testify under oath or produce evidence of any other kind on the ground that the witness may be incriminated thereby, and if a prosecuting attorney requests the court to order that person to testify or provide the evidence, the court shall then hold a hearing and shall so order, unless it finds that to do so would be clearly contrary to the public interest, and that person shall comply with the order.

If, but for this section, the witness would have been privileged to withhold the answer given or the evidence produced, the witness may not refuse to comply with the order on the basis of the privilege against self-incrimination; but the witness shall not be prosecuted or subjected to

criminal penalty or forfeiture for or on account of any transaction, matter, or fact concerning which the witness has been ordered to testify pursuant to this section. The witness may nevertheless be prosecuted for failing to comply with the order to answer, or for perjury or for offering false evidence to the court.

(3) Testimony of a physician concerning the medical circumstances of the pregnancy and the condition and characteristics of the child upon birth is not privileged.

(4) In an action against an alleged father, evidence offered by the alleged father with respect to a man who has not been joined as a party concerning the nonparty's sexual intercourse with the mother at or about the probable time of conception of the child is admissible in evidence only if the nonparty has undergone and made available to the court blood tests, including the human leukocyte antigen (HLA) test or other tests of comparable exclusionary power, the results of which do not exclude the possibility of the nonparty's paternity of the child.

(5) The trial shall be by the court without a jury. [1984 c 260 § 34; 1975-'76 2nd ex.s. c 42 § 13.]

Severability—1984 c 260: See RCW 26.18.900.

Nurse-patient privilege subject to RCW 26.26.120: RCW 5.62.030.

26.26.130 Judgment or order determining parent and child relationship—Support judgment and orders—Residential provisions—Custody. (1) The judgment and order of the court determining the existence or nonexistence of the parent and child relationship shall be determinative for all purposes.

(2) If the judgment and order of the court is at variance with the child's birth certificate, the court shall order that an amended birth certificate be issued.

(3) The judgment and order shall contain other appropriate provisions directed to the appropriate parties to the proceeding, concerning the duty of current and future support, the extent of any liability for past support furnished to the child if that issue is before the court, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child. The judgment and order may direct the father to pay the reasonable expenses of the mother's pregnancy and confinement.

(4) Support judgment and orders shall be for periodic payments which may vary in amount. The court may limit the father's liability for the past support to the child to the proportion of the expenses already incurred as the court deems just. The court shall not limit or affect in any manner the right of nonparties including the state of Washington to seek reimbursement for support and other services previously furnished to the child.

(5) After considering all relevant factors, the court shall order either or both parents to pay an amount determined pursuant to the schedule and standards adopted under *RCW 26.19.040.

(6) On the same basis as provided in chapter 26.09 RCW, the court shall make residential provisions with regard to minor children of the parties, except that a parenting plan shall not be required unless requested by a party.

(7) In any dispute between the natural parents of a child and a person or persons who have (a) commenced adoption proceedings or who have been granted an order of adoption,

and (b) pursuant to a court order, or placement by the department of social and health services or by a licensed agency, have had actual custody of the child for a period of one year or more before court action is commenced by the natural parent or parents, the court shall consider the best welfare and interests of the child, including the child's need for situation stability, in determining the matter of custody, and the parent or person who is more fit shall have the superior right to custody. [1989 c 375 § 23; 1989 c 360 § 18; 1987 c 460 § 56; 1983 1st ex.s. c 41 § 8; 1975-'76 2nd ex.s. c 42 § 14.]

Reviser's note: (1) This section was amended by 1989 c 360 § 18 and by 1989 c 375 § 23, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

(2) RCW 26.19.040 was repealed by 1991 sp.s. c 28 § 8, effective September 1, 1991.

Severability—1989 c 375: See RCW 26.09.914.

Short title—Section captions—Effective date—Severability—1987 c 460: See RCW 26.09.910 through 26.09.913.

Severability—1983 1st ex.s. c 41: See note following RCW 26.09.060.

26.26.132 Support orders—Compliance with RCW 26.23.050. Every court order or decree establishing a child support obligation shall be entered in compliance with RCW 26.23.050. [1987 c 435 § 27; 1986 c 138 § 3; 1984 c 260 § 23.]

Effective date—1987 c 435: See RCW 26.23.900.

Severability—1984 c 260: See RCW 26.18.900.

26.26.134 Support orders—Time limit, exception. A court may not order payment for support provided or expenses incurred more than five years prior to the commencement of the action. Any period of time in which the responsible party has concealed himself or avoided the jurisdiction of the court under this chapter shall not be included within the five-year period. [1983 1st ex.s. c 41 § 11.]

Severability—1983 1st ex.s. c 41: See note following RCW 26.09.060.

26.26.137 Temporary support—Temporary restraining order—Preliminary injunction—Support debts, notice. (1) If the court has made a finding as to the paternity of a child, or if a party's acknowledgment of paternity has been filed with the court, or a party alleges he is the father of the child, any party may move for temporary support for the child prior to the date of entry of the final order. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.

(2) Any party may request the court to issue a temporary restraining order or preliminary injunction, providing relief proper in the circumstances, and restraining or enjoining any party from:

- (a) Molesting or disturbing the peace of another party;
- (b) Entering the home of another party; or
- (c) Removing a child from the jurisdiction of the court.

(3) The court may issue a temporary restraining order without requiring notice to the other party only if it finds on the basis of the moving affidavit or other evidence that

irreparable injury could result if an order is not issued until the time for responding has elapsed.

(4) The court may issue a temporary restraining order or preliminary injunction and an order for temporary support in such amounts and on such terms as are just and proper in the circumstances.

(5) A temporary order, temporary restraining order, or preliminary injunction:

(a) Does not prejudice the rights of a party or any child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified;

(c) Terminates when the final order is entered or when the petition is dismissed; and

(d) May be entered in a proceeding for the modification of an existing order.

(6) A support debt owed to the state for public assistance expenditures which has been charged against a party pursuant to RCW 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise extinguished by, the final decree or order, unless the office of support enforcement has been given notice of the final proceeding and an opportunity to present its claim for the support debt to the court and has failed to file an affidavit as provided in this subsection. Notice of the proceeding shall be served upon the office of support enforcement personally, or by certified mail, and shall be given no fewer than thirty days prior to the date of the final proceeding. An original copy of the notice shall be filed with the court either before service or within a reasonable time thereafter. The office of support enforcement may present its claim, and thereby preserve the support debt, by filing an affidavit setting forth the amount of the debt with the court, and by mailing a copy of the affidavit to the parties or their attorney prior to the date of the final proceeding. [1983 1st ex.s. c 41 § 12.]

Severability—1983 1st ex.s. c 41: See note following RCW 26.09.060.

26.26.140 Costs. The court may order reasonable fees of experts and the child's guardian ad litem, and other costs of the action, including blood test costs, to be paid by the parties in proportions and at times determined by the court. The court may order that all or a portion of a party's reasonable attorney's fees be paid by another party, except that an award of attorney's fees assessed against the state or any of its agencies or representatives shall be under RCW 4.84.185. [1984 c 260 § 35; 1975-'76 2nd ex.s. c 42 § 15.]

Severability—1984 c 260: See RCW 26.18.900.

26.26.150 Enforcement of judgments or orders. (1) If existence of the father and child relationship is declared, or paternity or a duty of support has been acknowledged or adjudicated under this chapter or under prior law, the obligation of the father may be enforced in the same or other proceedings by the mother, the child, the state of Washington, the public authority that has furnished or may furnish the reasonable expenses of pregnancy, confinement, education, support, or funeral, or by any other person, including a private agency, to the extent he has furnished or is furnishing these expenses.

(2) The court shall order support payments to be made to the Washington state support registry, or the person entitled to receive the payments under an alternate payment plan approved by the court as provided in RCW 26.23.050.

(3) All remedies for the enforcement of judgments apply. [1987 c 435 § 28; 1975-'76 2nd ex.s. c 42 § 16.]

Effective date—1987 c 435: See RCW 26.23.900.

26.26.160 Modification of judgment or order—Continuing jurisdiction. (1) Except as provided in subsection (2) of this section the court has continuing jurisdiction to prospectively modify a judgment and order for future education and future support, and with respect to matters listed in RCW 26.26.130 (3) and (4), and RCW 26.26.150(2) upon showing a substantial change of circumstances. The procedures set forth in RCW 26.09.175 shall be used in modification proceedings under this section.

(2) A judgment or order entered under this chapter may be modified without a showing of substantial change of circumstances upon the same grounds as RCW 26.09.170 permits support orders to be modified without a showing of a substantial change of circumstance.

(3) The court may modify a parenting plan or residential provisions adopted pursuant to RCW 26.26.130(6) in accordance with the provisions of chapter 26.09 RCW. [1992 c 229 § 8; 1989 c 360 § 36; 1975-'76 2nd ex.s. c 42 § 17.]

26.26.165 Health insurance coverage. (1) In entering or modifying a support order under this chapter, the court shall require either or both parents to maintain or provide health insurance coverage for any dependent child as provided under RCW 26.09.105.

(2) This section shall not be construed to limit the authority of the court to enter or modify support orders containing provisions for payment of uninsured health expenses, health costs, or insurance premiums which are in addition to and not inconsistent with this section. "Health insurance coverage" as used in this section does not include medical assistance provided under chapter 74.09 RCW.

(3) A parent ordered to provide health insurance coverage shall provide proof of such coverage within twenty days of the entry of the order, or within twenty days of the date such coverage becomes available, to:

(a) The physical custodian; or

(b) The department of social and health services if the parent has been notified or ordered to make support payments to the Washington state support registry.

(4) Every order requiring a parent to provide health insurance coverage shall be entered in compliance with *RCW 26.23.050 and be subject to direct enforcement as provided under chapter 26.18 RCW. [1989 c 416 § 4.]

*Reviser's note: The reference to RCW 26.23.050 appears to refer to the amendments made by 1989 c 416 § 8, which was vetoed by the governor.

26.26.170 Action to determine mother and child relationship. Any interested party may bring an action to determine the existence or nonexistence of a mother and child relationship. Insofar as practicable, the provisions of

this chapter applicable to the father and child relationship apply. [1975-'76 2nd ex.s. c 42 § 18.]

26.26.180 Promise to render support. Any promise in writing to furnish support for a child, growing out of a supposed or alleged father and child relationship, does not require consideration and is enforceable according to its terms, subject to RCW 26.26.060(3). [1983 1st ex.s. c 41 § 9; 1975-'76 2nd ex.s. c 42 § 19.]

Severability—1983 1st ex.s. c 41: See note following RCW 26.09.060.

26.26.190 Relinquishment of child for adoption—Notice to other parent. If a parent relinquishes or proposes to relinquish for adoption a child, the other parent shall be given notice of the adoption proceeding and have the rights provided under the provisions of chapter 26.33 RCW. [1985 c 7 § 87; 1975-'76 2nd ex.s. c 42 § 20.]

26.26.200 Hearing or trials to be in closed court—Records confidential. Notwithstanding any other rule of law concerning public hearings and records, any hearing or trial held under this chapter shall be held in closed court without admittance of any person other than those necessary to the action or proceeding or for the orderly administration of justice. All papers and records, other than the final judgment and matters related to the enforcement of the final judgment, pertaining to the action or proceeding, whether part of the permanent record of the court or of a file in the department of social and health services, are subject to inspection by a nonparty only upon an order of the court for good cause shown following reasonable notice to all parties of the hearing where such order is to be sought. [1983 1st ex.s. c 41 § 10; 1975-'76 2nd ex.s. c 42 § 21.]

Severability—1983 1st ex.s. c 41: See note following RCW 26.09.060.

26.26.210 Surrogate parenting—Definitions. As used in RCW 26.26.210 through 26.26.260:

(1) "Compensation" means a payment of money, objects, services, or anything else having monetary value except payment of expenses incurred as a result of the pregnancy and the actual medical expenses of a surrogate mother, and the payment of reasonable attorney fees for the drafting of a surrogate parentage contract.

(2) "Surrogate gestation" means the implantation in a female of an embryo not genetically related to that female and subsequent gestation of a child by that female.

(3) "Surrogate mother" means a female, who is not married to the contributor of the sperm, and who is naturally or artificially inseminated and who subsequently gestates a child conceived through the insemination pursuant to a surrogate parentage contract.

(4) "Surrogate parentage contract" means a contract, agreement, or arrangement in which a female, not married to the contributor of the sperm, agrees to conceive a child through natural or artificial insemination or in which a female agrees to surrogate gestation, and to voluntarily relinquish her parental rights to the child. [1989 c 404 § 1.]

26.26.220 Surrogate parenting—Persons excluded from contracting. A person shall not enter into, induce, arrange, procure, or otherwise assist in the formation of a surrogate parentage contract under which an unemancipated minor female or a female diagnosed as being mentally retarded or as having a mental illness or developmental disability is the surrogate mother. [1989 c 404 § 2.]

26.26.230 Surrogate parenting—Compensation prohibited. No person, organization, or agency shall enter into, induce, arrange, procure, or otherwise assist in the formation of a surrogate parentage contract, written or unwritten, for compensation. [1989 c 404 § 3.]

26.26.240 Surrogate parenting—Contract for compensation void. A surrogate parentage contract entered into for compensation, whether executed in the state of Washington or in another jurisdiction, shall be void and unenforceable in the state of Washington as contrary to public policy. [1989 c 404 § 4.]

26.26.250 Surrogate parenting—Provisions violated—Penalty. Any person, organization, or agency who intentionally violates any provision of RCW 26.26.210 through 26.26.260 shall be guilty of a gross misdemeanor. [1989 c 404 § 5.]

26.26.260 Surrogate parenting—Custody of child. If a child is born to a surrogate mother pursuant to a surrogate parentage contract, and there is a dispute between the parties concerning custody of the child, the party having physical custody of the child may retain physical custody of the child until the superior court orders otherwise. The superior court shall award legal custody of the child based upon the factors listed in RCW 26.09.187(3) and 26.09.191. [1989 c 404 § 6.]

26.26.270 Parenting plan—Designation of parent for other state and federal purposes. Solely for the purposes of all other state and federal statutes which require a designation or determination of custody, a parenting plan shall designate the parent with whom the child is scheduled to reside a majority of the time as the custodian of the child. However, this designation shall not affect either parent's rights and responsibilities under the parenting plan. In the absence of such a designation, the parent with whom the child is scheduled to reside the majority of the time shall be deemed to be the custodian of the child for the purposes of such federal and state statutes. [1989 c 375 § 25.]

Severability—1989 c 375: See RCW 26.09.914.

26.26.900 Uniformity of application and construction. This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it. [1975-'76 2nd ex.s. c 42 § 42.]

26.26.901 Short title. This act may be cited as the Uniform Parentage Act. [1975-'76 2nd ex.s. c 42 § 43.]

26.26.905 Severability—1975-'76 2nd ex.s. c 42. If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975-'76 2nd ex.s. c 42 § 44.]

Chapter 26.27

UNIFORM CHILD CUSTODY JURISDICTION ACT

Sections

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26.27.900	Construction with chapter 26.09 RCW.
26.27.910	Short title.
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26.27.930	Section captions.

26.27.010 Purposes of chapter—Construction of provisions. (1) The general purposes of this chapter are to:

(a) Avoid jurisdiction competition and conflict with courts of other states in matters of child custody which have in the past resulted in the shifting of children from state to state with harmful effects on their well-being;

(b) Promote cooperation with the courts of other states to the end that a custody decree is rendered in that state which can best decide the case in the interest of the child;

(c) Assure that litigation concerning the custody of a child take place ordinarily in the state with which the child and his family have the closest connection and where significant evidence concerning his care, protection, training, and personal relationships is most readily available, and that courts of this state decline the exercise of jurisdiction when the child and his family have a closer connection with another state;

(d) Discourage continuing controversies over child custody in the interest of greater stability of home environment and of secure family relationships for the child;

(e) Deter abductions and other unilateral removals of children undertaken to obtain custody awards;

(f) Avoid relitigation of custody decisions of other states in this state insofar as feasible;

(g) Facilitate the enforcement of custody decrees of other states;

(h) Promote and expand the exchange of information and other forms of mutual assistance between the courts of this state and those of other states concerned with the same child; and

(i) Make uniform the law of those states which enact it.

(2) This chapter shall be construed to promote the general purposes stated in this section. [1979 c 98 § 1.]

26.27.020 Definitions. As used in this chapter:

(1) "Contestant" means a person, including a parent, who claims a right to custody or visitation rights with respect to a child;

(2) "Custody determination" means a court decision and court orders and instructions providing for the custody of a child, including visitation rights; it does not include a decision relating to child support or any other monetary obligation of any person;

(3) "Custody proceeding" includes proceedings in which a custody determination is one of several issues, such as an action for dissolution of marriage, or legal separation, and includes child neglect and dependency proceedings;

(4) "Decree" or "custody decree" means a custody determination contained in a judicial decree or order made in a custody proceeding, and includes an initial decree and a modification decree;

(5) "Home state" means the state in which the child immediately preceding the time involved lived with his parents, a parent, or a person acting as parent, for at least six consecutive months, and in the case of a child less than six months old the state in which the child lived from birth with any of the persons mentioned. Periods of temporary absence of any of the named persons are counted as part of the six-month or other period;

(6) "Initial decree" means the first custody decree concerning a particular child;

(7) "Modification decree" means a custody decree which modifies or replaces a prior decree, whether made by the court which rendered the prior decree or by another court;

(8) "Physical custody" means actual possession and control of a child;

(9) "Person acting as parent" means a person, other than a parent, who has physical custody of a child and who has either been awarded custody by the court or claims a right to custody; and

(10) "State" means any state, territory, or possession of the United States, the Commonwealth of Puerto Rico, and the District of Columbia. [1979 c 98 § 2.]

26.27.030 Jurisdiction. (1) A court of this state which is competent to decide child custody matters has jurisdiction to make a child custody determination by initial or modification decree if the conditions as set forth in any of the following paragraphs are met:

(a) This state (i) is the home state of the child at the time of commencement of the proceeding, or (ii) had been the child's home state within six months before commencement of the proceeding and the child is absent from this state because of his removal or retention by a person claiming his

custody or for other reasons, and a parent or person acting as parent continues to live in this state; or

(b) It is in the best interest of the child that a court of this state assume jurisdiction because (i) the child and his parents, or the child and at least one contestant, have a significant connection with this state, and (ii) there is available in this state substantial evidence concerning the child's present or future care, protection, training, and personal relationships; or

(c) The child is physically present in this state and (i) the child has been abandoned or (ii) it is necessary in an emergency to protect the child because he has been subjected to or threatened with mistreatment or abuse or is otherwise neglected or dependent; or

(d)(i) It appears that no other state would have jurisdiction under prerequisites substantially in accordance with paragraphs (a), (b), or (c) of this subsection, or another state has declined to exercise jurisdiction on the ground that this state is the more appropriate forum to determine the custody of the child, and (ii) it is in the best interest of the child that this court assume jurisdiction.

(2) Except under subsection (1) (c) and (d) of this section, physical presence in this state of the child, or of the child and one of the contestants, is not alone sufficient to confer jurisdiction on a court of this state to make a child custody determination.

(3) Physical presence of the child, while desirable, is not a prerequisite for jurisdiction to determine his custody. [1979 c 98 § 3.]

26.27.040 Notice and opportunity to be heard.

Before making a decree under this chapter, reasonable notice and opportunity to be heard shall be given to the contestants, any parent whose parental rights have not been previously terminated, and any person who has physical custody of the child. If any of these persons is outside this state, notice and opportunity to be heard shall be given under RCW 26.27.050. [1979 c 98 § 4.]

26.27.050 Notice to persons outside this state—Submission to jurisdiction.

(1) Notice required for the exercise of jurisdiction over a person outside this state shall be given in a manner reasonably calculated to give actual notice, and may be made in any of the following ways:

(a) By personal delivery outside this state in the manner prescribed for service of process within this state;

(b) In the manner prescribed by the law of the place in which the service is made for service of process in that place in an action in any of its courts of general jurisdiction;

(c) By any form of mail addressed to the person to be served and requesting a receipt; or

(d) As directed by the court (including publication, if other means of notification are ineffective).

(2) Notice under this section shall be served, mailed, delivered, or last published at least ten days before any hearing in this state.

(3) Proof of service outside this state may be made by affidavit of the individual who made the service, or in the manner prescribed by the law of this state, the order pursuant to which the service is made, or the law of the place in which the service is made. If service is made by mail, proof

may be a receipt signed by the addressee or other evidence of delivery to the addressee.

(4) Notice is not required if a person submits to the jurisdiction of the court. [1979 c 98 § 5.]

26.27.060 Simultaneous proceedings in other states.

(1) A court of this state shall not exercise its jurisdiction under this chapter if at the time of filing the petition a proceeding concerning the custody of the child was pending in a court of another state exercising jurisdiction substantially in conformity with this chapter, unless the proceeding is stayed by the court of the other state because this state is a more appropriate forum or for other reasons.

(2) Before hearing the petition in a custody proceeding the court shall examine the pleadings and other information supplied by the parties under RCW 26.27.090 and shall consult the child custody registry established under RCW 26.27.160 concerning the pendency of proceedings with respect to the child in other states. If the court has reason to believe that proceedings may be pending in another state it shall direct an inquiry to the state court administrator or other appropriate official of the other state.

(3) If the court is informed during the course of the proceeding that a proceeding concerning the custody of the child was pending in another state before the court assumed jurisdiction it shall stay the proceeding and communicate with the court in which the other proceeding is pending to the end that the issue may be litigated in the more appropriate forum and that information be exchanged in accordance with RCW 26.27.190 through 26.27.220. If a court of this state has made a custody decree before being informed of a pending proceeding in a court of another state it shall immediately inform that court of the fact. If the court is informed that a proceeding was commenced in another state after it assumed jurisdiction it shall likewise inform the other court to the end that the issues may be litigated in the more appropriate forum. [1979 c 98 § 6.]

26.27.070 Inconvenient forum. (1) A court which has jurisdiction under this chapter to make an initial or modification decree may decline to exercise its jurisdiction any time before making a decree if it finds that it is an inconvenient forum to make a custody determination under the circumstances of the case and that a court of another state is a more appropriate forum.

(2) A finding of inconvenient forum may be made upon the court's own motion or upon motion of a party or a guardian ad litem or other representative of the child.

(3) In determining if it is an inconvenient forum, the court shall consider if it is in the interest of the child that another state assume jurisdiction. For this purpose it may take into account the following factors, among others:

(a) If another state is or recently was the child's home state;

(b) If another state has a closer connection with the child and his family or with the child and one or more of the contestants;

(c) If substantial evidence concerning the child's present or future care, protection, training, and personal relationships is more readily available in another state;

(d) If the parties have agreed on another forum which is no less appropriate; and

(e) If the exercise of jurisdiction by a court of this state would contravene any of the purposes stated in RCW 26.27.010.

(4) Before determining whether to decline or retain jurisdiction the court may communicate with a court of another state and exchange information pertinent to the assumption of jurisdiction by either court with a view to assuring that jurisdiction will be exercised by the more appropriate court and that a forum will be available to the parties.

(5) If the court finds that it is an inconvenient forum and that a court of another state is a more appropriate forum, it may dismiss the proceedings, or it may stay the proceedings upon condition that a custody proceeding be promptly commenced in another named state or upon any other conditions which may be just and proper, including the condition that a moving party stipulate his consent and submission to the jurisdiction of the other forum.

(6) The court may decline to exercise its jurisdiction under this chapter if a custody determination is incidental to an action for dissolution of marriage or another proceeding while retaining jurisdiction over the dissolution of marriage or other proceeding.

(7) If it appears to the court that it is clearly an inappropriate forum it may require the party who commenced the proceedings to pay, in addition to the costs of the proceedings in this state, necessary travel and other expenses, including attorney's fees, incurred by other parties or their witnesses. Payment is to be made to the clerk of the court for remittance to the proper party.

(8) Upon dismissal or stay of proceedings under this section the court shall inform the court found to be the more appropriate forum of this fact, or if the court which would have jurisdiction in the other state is not certainly known, shall transmit the information to the court administrator or other appropriate official for forwarding to the appropriate court.

(9) Any communication received from another state informing this state of a finding of inconvenient forum because a court of this state is the more appropriate forum shall be filed in the custody registry of the appropriate court. Upon assuming jurisdiction the court of this state shall inform the original court of this fact. [1979 c 98 § 7.]

26.27.080 Jurisdiction declined by reason of conduct. (1) If the petitioner for an initial decree has wrongfully taken the child from another state or has engaged in similar reprehensible conduct the court may decline to exercise jurisdiction for purposes of adjudication of custody if this is just and proper under the circumstances.

(2) Unless required in the interest of the child, the court shall not exercise its jurisdiction to modify a custody decree of another state if the petitioner, without consent of the person entitled to custody has improperly removed the child from the physical custody of the person entitled to custody or has improperly retained the child after a visit or other temporary relinquishment of physical custody. If the petitioner has violated any other provision of a custody

decree of another state the court may decline to exercise its jurisdiction if this is just and proper under the circumstances.

(3) Where the court declines to exercise jurisdiction upon petition for an initial custody decree under subsection (1) of this section, the court shall notify the parent or other appropriate person and the prosecuting attorney of the appropriate jurisdiction in the other state. If a request to that effect is received from the other state, the court shall order the petitioner to appear with the child in a custody proceeding instituted in the other state in accordance with RCW 26.27.200. If no such request is made within a reasonable time after the notification, the court may entertain a petition to determine custody by the petitioner if it has jurisdiction under RCW 26.27.030.

(4) Where the court refuses to assume jurisdiction to modify the custody decree of another state under subsection (2) of this section or under RCW 26.27.140, the court shall notify the person who has legal custody under the decree of the other state and the prosecuting attorney of the appropriate jurisdiction in the other state and may order the petitioner to return the child to the person who has legal custody. If it appears that the order will be ineffective and the legal custodian is ready to receive the child within a period of a few days, the court may place the child in a foster care home for the period, pending return of the child to the legal custodian. At the same time, the court shall advise the petitioner that any petition for modification of custody must be directed to the appropriate court of the other state which has continuing jurisdiction, or, in the event that that court declines jurisdiction, to a court in a state which has jurisdiction under RCW 26.27.030.

(5) In appropriate cases a court dismissing a petition under this section may charge the petitioner with necessary travel and other expenses, including attorney's fees and the cost of returning the child to another state. [1979 c 98 § 8.]

26.27.090 Information under oath to be submitted to court. (1) Every party in a custody proceeding in his first pleading or in an affidavit attached to that pleading shall give information under oath as to the child's present address, the places where the child has lived within the last five years, and the names and present addresses of the persons with whom the child has lived during that period. In this pleading or affidavit every party shall further declare under oath as to each of the following whether:

(a) He has participated, as a party, witness, or in any other capacity, in any other litigation concerning the custody of the same child in this or any other state;

(b) He has information of any custody proceeding concerning the child pending in a court of this or any other state; and

(c) He knows of any person not a party to the proceedings who has physical custody of the child or claims to have custody or visitation rights with respect to the child.

(2) If the declaration as to any of the above items is in the affirmative the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and as to other matters pertinent to the court's jurisdiction and the disposition of the case.

(3) Each party has a continuing duty to inform the court of any custody proceeding concerning the child in this or any other state of which he obtained information during this proceeding. [1979 c 98 § 9.]

26.27.100 Additional parties. If the court learns from information furnished by the parties under RCW 26.27.090 or from other sources that a person not a party to the custody proceeding has physical custody of the child or claims to have custody or visitation rights with respect to the child, it shall order that person to be joined as a party and to be duly notified of the pendency of the proceeding and of his joinder as a party. If the person joined as a party is outside this state he shall be served with process or otherwise notified in accordance with RCW 26.27.050. [1979 c 98 § 10.]

26.27.110 Appearance of parties and child. (1) The court may order any party to the proceeding who is in this state to appear personally before the court. If that party has physical custody of the child the court may order that he appear personally with the child. If the party who is ordered to appear with the child cannot be served or fails to obey the order, or it appears the order will be ineffective, the court may issue a warrant of arrest against the party to secure his appearance with the child.

(2) If a party to the proceeding whose presence is desired by the court is outside this state with or without the child the court may order that the notice given under RCW 26.27.050 include a statement directing that party to appear personally with or without the child and declaring that failure to appear may result in a decision adverse to that party.

(3) If a party to the proceeding who is outside this state is directed to appear under subsection (2) of this section or desires to appear personally before the court with or without the child, the court may require another party to pay to the clerk of the court travel and other necessary expenses of the party so appearing and of the child if this is just and proper under the circumstances. [1979 c 98 § 11.]

26.27.120 Binding force and res judicata effect of custody decree. A custody decree rendered by a court of this state which had jurisdiction under RCW 26.27.030 binds all parties who have been served in this state or notified in accordance with RCW 26.27.050 or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to these parties the custody decree is conclusive as to all issues of law and fact decided and as to the custody determination made unless and until that determination is modified pursuant to law, including the provisions of this chapter. [1979 c 98 § 12.]

26.27.130 Recognition of out-of-state custody decrees. The courts of this state shall recognize and enforce an initial or modification decree of a court of another state which had assumed jurisdiction under statutory provisions substantially in accordance with this chapter or which was made under factual circumstances meeting the jurisdictional standards of this chapter, so long as this decree has not been

modified in accordance with jurisdictional standards substantially similar to those of this chapter. [1979 c 98 § 13.]

26.27.140 Modification of custody decree of another state. (1) If a court of another state has made a custody decree, a court of this state shall not modify that decree unless (a) it appears to the court of this state that the court which rendered the decree does not now have jurisdiction under jurisdictional prerequisites substantially in accordance with this chapter or has declined to assume jurisdiction to modify the decree and (b) the court of this state has jurisdiction.

(2) If a court of this state is authorized under subsection (1) of this section and RCW 26.27.080 to modify a custody decree of another state it shall give due consideration to the transcript of the record and other documents of all previous proceedings submitted to it in accordance with RCW 26.27.220. [1979 c 98 § 14.]

26.27.150 Filing and enforcement of custody decree of another state. (1) A certified copy of a custody decree of another state may be filed in the office of the clerk of any superior court of this state. The clerk shall treat the decree in the same manner as a custody decree of the superior court of this state. A custody decree so filed has the same effect and shall be enforced in like manner as a custody decree rendered by a court of this state.

(2) A person violating a custody decree of another state which makes it necessary to enforce the decree in this state may be required to pay necessary travel and other expenses, including attorneys' fees, incurred by the party entitled to the custody or his witnesses. [1979 c 98 § 15.]

26.27.160 Registry of out-of-state custody decrees and proceedings. (1) The clerk of each superior court shall maintain a registry in which he or she shall enter certified copies of custody decrees of other states received for filing to which the clerk shall assign an individual cause number.

(2) The clerk shall maintain the following at no charge as miscellaneous filings:

- (a) Communications as to the pendency of custody proceedings in other states;
- (b) Communications concerning a finding of inconvenient forum by a court of another state; and
- (c) Other communications or documents concerning custody proceedings in another state which may affect the jurisdiction of a court of this state or the disposition to be made by it in a custody proceeding. [1984 c 128 § 7; 1979 c 98 § 16.]

26.27.170 Certified copies of custody decree. The clerk of a superior court of this state, at the request of the court of another state or at the request of any person who is affected by or has a legitimate interest in a custody decree, shall certify and forward a copy of the decree to that court or person. [1979 c 98 § 17.]

26.27.180 Taking testimony in another state. In addition to other procedural devices available to a party, any party to the proceeding or a guardian ad litem or other representative of the child may adduce testimony of witness-

es, including parties and the child, by deposition or otherwise, in another state. The court on its own motion may direct that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony shall be taken. [1979 c 98 § 18.]

26.27.190 Hearings and studies in another state—Orders to appear. (1) A court of this state may request the appropriate court of another state to hold a hearing to adduce evidence, to order a party to produce or give evidence under other procedures of that state, or to have social studies made with respect to the custody of a child involved in proceedings pending in the court of this state; and to forward to the court of this state certified copies of the transcript of the record of the hearing, the evidence otherwise adduced, or any social studies prepared in compliance with the request. The cost of the services may be assessed against the parties or, if necessary, ordered paid by the state.

(2) A court of this state may request the appropriate court of another state to order a party to custody proceedings pending in the court of this state to appear in the proceedings, and if that party has physical custody of the child, to appear with the child. The request may state that travel and other necessary expenses of the party and of the child whose appearance is desired will be assessed against another party or will otherwise be paid. [1979 c 98 § 19.]

26.27.200 Assistance to courts of other states. (1) Upon request of the court of another state the courts of this state which are competent to hear custody matters may order a person in this state to appear at a hearing to adduce evidence or to produce or give evidence under other procedures available in this state or may order social studies under RCW 26.09.220 to be made for use in a custody proceeding in another state. A certified copy of the transcript of the record of the hearing or the evidence otherwise adduced and any social studies made shall be forwarded by the clerk of the court to the requesting court.

(2) A person within this state may voluntarily give his testimony or statement in this state for use in a custody proceeding outside this state.

(3) Upon request of the court of another state a competent court of this state may order a person in this state to appear alone or with the child in a custody proceeding in another state. The court may condition compliance with the request upon assurance by the other state that travel and other necessary expenses will be advanced or reimbursed. If the person who has physical custody of the child cannot be served or fails to obey the order, or it appears the order will be ineffective, the court may issue a warrant of arrest against such person to secure his appearance with the child in the other state. [1979 c 98 § 20.]

26.27.210 Preservation of records of custody proceedings—Forwarding to another state. In any custody proceeding in this state the court shall preserve the pleadings, orders and decrees, any record that has been made of its hearings, social studies, and other pertinent documents until the child reaches eighteen years of age. Upon appropriate request of the court of another state the court shall

forward to the other court certified copies of any or all of such documents. [1979 c 98 § 21.]

26.27.220 Request for court records of another state. If a custody decree has been rendered in another state concerning a child involved in a custody proceeding pending in a court of this state, the court of this state upon taking jurisdiction of the case shall request of the court of the other state a certified copy of the transcript of any court record and other documents mentioned in RCW 26.27.210. [1979 c 98 § 22.]

26.27.230 International application. The general policies of this chapter extend to the international area. The provisions of this chapter relating to the recognition and enforcement of custody decrees of other states apply to custody decrees and decrees involving legal institutions similar in nature to custody rendered by appropriate authorities of other nations if reasonable notice and opportunity to be heard were given to all affected persons. [1979 c 98 § 23.]

26.27.900 Construction with chapter 26.09 RCW. This chapter is in addition to and shall be construed in conjunction with chapter 26.09 RCW. In the event of an irreconcilable conflict between this chapter and chapter 26.09 RCW, chapter 26.09 RCW shall control. [1979 c 98 § 24.]

26.27.910 Short title. This chapter may be cited as the Uniform Child Custody Jurisdiction Act. [1979 c 98 § 25.]

26.27.920 Severability—1979 c 98. 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 c 98 § 26.]

26.27.930 Section captions. Section captions used in this act shall constitute no part of the law. [1979 c 98 § 27.]

Chapter 26.28

AGE OF MAJORITY

(Formerly: Infants)

Sections

- 26.28.010 Age of majority.
- 26.28.015 Age of majority for enumerated specific purposes.
- 26.28.020 Married persons—When deemed of full age.
- 26.28.030 Contracts of minors—Disaffirmance.
- 26.28.040 Disaffirmance barred in certain cases.
- 26.28.050 Satisfaction of minor's contract for services.
- 26.28.060 Child labor—Penalty.
- 26.28.070 Certain types of employment prohibited—Penalty.
- 26.28.080 Certain acts prohibited—Belief minor in representative capacity, no defense—Penalty.

Aid to dependent children: Chapter 74.12 RCW.

Alcoholic beverage control

- furnishing liquor to minors—Possession, use: RCW 66.44.270.*
- minor applying for permit: RCW 66.44.280.*
- minor purchasing liquor: RCW 66.44.290.*
- minors frequenting taverns—Misrepresenting age: RCW 66.44.310.*

- sales to minors a felony: RCW 66.44.320.*
- treating minor, etc., in tavern: RCW 66.44.300.*

Baseball—Contracts with minors: Chapter 67.04 RCW.

Child

- labor: Chapter 49.12 RCW.*
- support enforcement: Chapter 26.18 RCW.*
- welfare agencies: Chapter 74.15 RCW.*

Children and youth services: RCW 43.20A.360, chapter 72.05 RCW.

Civil defense—Minors entitled to benefits: RCW 38.52.270.

Coal mining—Employment of minors: RCW 78.40.606.

Costs (civil) against guardian of infant plaintiff: RCW 4.84.140.

Council for the prevention of child abuse and neglect: Chapter 43.121 RCW.

Crimes and punishment

firearms, dangerous weapons

- delivery to minors and others forbidden: RCW 9.41.080.*
- use of firearms by minor: RCW 9.41.240.*

frauds and swindles, substitution of child: RCW 9.45.020.

kidnapping: Chapter 9A.40 RCW.

leaving children unattended in parked automobile: RCW 9.91.060.

obscenity—Obscene literature: Chapter 9.68 RCW.

sex crimes: Chapter 9A.44 RCW.

Department of social and health services, advisory committee on children and youth services: RCW 43.20A.360.

District courts (civil)

action against infant—Guardian ad litem: RCW 12.04.150.

commencement of actions—Action by infant: RCW 12.04.140.

Domestic violence prevention: Chapter 26.50 RCW.

Family abandonment or nonsupport: Chapter 26.20 RCW.

Firearm training program: RCW 77.32.155.

Game and game fish—Areas may be set aside for use of minors: RCW 77.12.330.

Green Hill School: Chapter 72.16 RCW.

Hours of labor: Chapter 49.28 RCW.

Juvenile courts and juvenile offenders: Title 13 RCW.

Limitation of actions (civil)

minors suing guardians for estates sold: RCW 4.16.070.

statutes tolled by personal disability: RCW 4.16.190.

Maple Lane School: Chapter 72.20 RCW.

Missing children clearinghouse and hotline: Chapter 13.60 RCW.

Motor vehicle operators' licenses

application of minor—Signature of parent, etc.: RCW 46.20.100.

juvenile agricultural driving permits: RCW 46.20.070.

persons ineligible, generally: RCW 46.20.031.

Parties to actions (civil)—Guardian ad litem for infant: RCW 4.08.050.

Partition

guardian may consent to partition: RCW 7.52.470.

infant's share of proceeds to guardian: RCW 7.52.450.

Probate

descent and distribution to legitimate, illegitimate, adopted children: Chapter 11.04 RCW.

escheats—Limitation when claimant is minor: RCW 11.08.280.

guardianship—Guardian ad litem: RCW 11.88.090.

letters testamentary and of administration—Procedure during minority or absence of executor: RCW 11.28.040.

provisions for family support

appointment of guardian ad litem for minors or incompetents: RCW 11.52.014.

support of minor children: RCW 11.52.030.

Property taxes—Certificate of delinquency—Redemption before deed—Minors and legally incompetent: RCW 84.64.070.

Recognizances for minors: RCW 10.16.150.

Savings and loan associations, minors as members: RCW 33.20.040.

Schools and colleges, generally: Titles 28A and 28B RCW.

Sexual psychopaths and psychopathic delinquents: Chapter 71.06 RCW.

Shoplifting by minors, liability of parents, guardians: RCW 4.24.230.

Special education—Children with handicapping conditions: Chapter 28A.155 RCW.

Special rights of action (civil)

action by parent for sale or transfer of controlled substance to minor: RCW 69.50.414.

action by parent for seduction of child: RCW 4.24.020.

action for injury or death of child: RCW 4.24.010.

State school for blind and deaf—Who may be admitted: RCW 72.40.040.

State school for girls: Chapter 72.20 RCW.

State training school for boys: Chapter 72.16 RCW.

Survival of actions (civil)—Action for personal injury survives to spouse, child, stepchildren, or heirs: RCW 4.20.060.

Unemployment compensation, "employment"—Newsboy service exemption: RCW 50.04.240.

Uniform transfers to minors act: Chapter 11.114 RCW.

Uniform veterans' guardianship act—Guardian for minor: RCW 73.36.060.

Vital statistics, supplemental report on name of child: RCW 70.58.100.

Worker's compensation—"Child" defined: RCW 51.08.030.

26.28.010 Age of majority. Except as otherwise specifically provided by law, all persons shall be deemed and taken to be of full age for all purposes at the age of eighteen years. [1971 ex.s. c 292 § 1; 1970 ex.s. c 17 § 1; 1923 c 72 § 2; Code 1881 § 2363; 1866 p 92 § 1; 1863 p 434 § 1; 1854 p 407 § 1; RRS § 10548.]

Severability—1971 ex.s. c 292: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 292 § 77.]

Saving—1923 c 72: "This act shall not apply to females who shall have attained the age of eighteen years at the time this act shall go into effect." [1923 c 72 § 3.] 1923 c 72 was codified as RCW 11.92.010 and 26.28.010.

Age of majority for probate law and procedure purposes: RCW 11.76.080, 11.76.095, 11.88.020, and 11.92.010.

26.28.015 Age of majority for enumerated specific purposes. Notwithstanding any other provision of law, and except as provided under RCW 26.50.020, all persons shall be deemed and taken to be of full age for the specific purposes hereafter enumerated at the age of eighteen years:

- (1) To enter into any marriage contract without parental consent if otherwise qualified by law;
- (2) To execute a will for the disposition of both real and personal property if otherwise qualified by law;
- (3) To vote in any election if authorized by the Constitution and otherwise qualified by law;
- (4) To enter into any legal contractual obligation and to be legally bound thereby to the full extent as any other adult person;
- (5) To make decisions in regard to their own body and the body of their lawful issue whether natural born to or adopted by such person to the full extent allowed to any other adult person including but not limited to consent to surgical operations;
- (6) To sue and be sued on any action to the full extent as any other adult person in any of the courts of this state, without the necessity for a guardian ad litem. [1992 c 111 § 12; 1971 ex.s. c 292 § 2.]

Severability—1992 c 111: See RCW 26.50.903.

Findings—1992 c 111: See note following RCW 26.50.030.

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

26.28.020 Married persons—When deemed of full age. All minor persons married to a person of full age shall be deemed and taken to be of full age. [1973 1st ex.s. c 154 § 38; Code 1881 § 2364; 1863 p 434 § 2; 1854 p 407 § 2; RRS § 10549.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

26.28.030 Contracts of minors—Disaffirmance. A minor is bound, not only by contracts for necessities, but also by his other contracts, unless he disaffirms them within a reasonable time after he attains his majority, and restores to the other party all money and property received by him by virtue of the contract, and remaining within his control at any time after his attaining his majority. [1866 p 92 § 2; RRS § 5829.]

26.28.040 Disaffirmance barred in certain cases. No contract can be thus disaffirmed in cases where on account of the minor's own misrepresentations as to his majority, or from his having engaged in business as an adult, the other party had good reasons to believe the minor capable of contracting. [1866 p 93 § 3; RRS § 5830.]

26.28.050 Satisfaction of minor's contract for services. When a contract for the personal services of a minor has been made with him alone, and those services are afterwards performed, payment made therefor to such minor in accordance with the terms of the contract, is a full satisfaction for those services, and the parents or guardian cannot recover therefor. [1866 p 93 § 4; RRS § 5831.]

26.28.060 Child labor—Penalty. Every person who shall employ, and every parent, guardian or other person having the care, custody or control of such child, who shall permit to be employed, by another, any child under the age of fourteen years at any labor whatever, in or in connection with any store, shop, factory, mine or any inside employment not connected with farm or house work, without the written permit thereto of a judge of a superior court of the county wherein such child may live, shall be guilty of a misdemeanor. [1973 1st ex.s. c 154 § 39; 1909 c 249 § 195; RRS § 2447.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

Child labor: Chapter 49.12 RCW.

Employment permits: RCW 28A.225.080.

26.28.070 Certain types of employment prohibited—Penalty. Every person who shall employ, or cause to be employed, exhibit or have in his custody for exhibition or employment any minor actually or apparently under the age of eighteen years; and every parent, relative, guardian, employer or other person having the care, custody, or control of any such minor, who shall in any way procure or consent to the employment of such minor:

- (1) In begging, receiving alms, or in any mendicant occupation; or,
 - (2) In any indecent or immoral exhibition or practice;
- or,

(3) In any practice or exhibition dangerous or injurious to life, limb, health or morals; or,

(4) As a messenger for delivering letters, telegrams, packages or bundles, to any known house of prostitution or assignation;

Shall be guilty of a misdemeanor. [1909 c 249 § 194; RRS § 2446.]

Juvenile courts and juvenile offenders: Title 13 RCW.

26.28.080 Certain acts prohibited—Belief minor in representative capacity, no defense—Penalty. Every person who:

(1) Shall admit to or allow to remain in any concert saloon, or in any place owned, kept, or managed by him or her where intoxicating liquors are sold, given away or disposed of—except a restaurant or dining room, any person under the age of eighteen years; or,

(2) Shall admit to, or allow to remain in any public pool or billiard hall, or in any place of entertainment injurious to health or morals, owned, kept or managed by him or her, any person under the age of eighteen years; or,

(3) Shall suffer or permit any such person to play any game of skill or chance, in any such place, or in any place adjacent thereto, or to be or remain therein, or admit or allow to remain in any reputed house of prostitution or assignation, or in any place where opium or any preparation thereof, is smoked, or where any narcotic drug is used, any persons under the age of eighteen years; or,

(4) Shall sell or give, or permit to be sold or given to any person under the age of eighteen years any cigar, cigarette, cigarette paper or wrapper, or tobacco in any form; or

(5) Shall sell, or give, or permit to be sold or given to any person under the age of eighteen years, any revolver or pistol;

Shall be guilty of a gross misdemeanor.

It shall be no defense to a prosecution for a violation of this section that the person acted, or was believed by the defendant to act, as agent or representative of another. [1987 c 250 § 2; 1987 c 204 § 1; 1971 ex.s. c 292 § 37; 1919 c 17 § 1; 1911 c 133 § 1; 1909 ex.s. c 27 § 1; 1909 c 249 § 193; 1901 c 122 § 1; 1895 c 126 §§ 1, 3 and 4; RRS § 2445. Formerly RCW 26.08.080, 26.08.090 and 26.08.100.]

Reviser's note: This section was amended by 1987 c 204 § 1 and by 1987 c 250 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

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

Juvenile courts and juvenile offenders: Title 13 RCW.

Chapter 26.30

UNIFORM MINOR STUDENT CAPACITY TO BORROW ACT

Sections

26.30.010	Definitions.
26.30.020	Minors—Contracts—Educational purposes—Enforceability.
26.30.900	Uniformity of interpretation.
26.30.910	Short title.
26.30.920	Effective date—1970 ex.s. c 4.

26.30.010 Definitions.

As used in this chapter:
(1) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(2) "Educational institution" means any university, college, community college, junior college, high school, technical, vocational, or professional school, or similar institution, wherever located, which has been accredited by the Northwest Association of Higher and Secondary Institutions or approved by the state agency having regulatory powers over the class of schools to which the school belongs, or accredited or approved by the appropriate official, department, or agency of the state in which the institution is located.

(3) "Educational loan" means a loan or other aid or assistance for the purpose of furthering the obligor's education at an educational institution. [1970 ex.s. c 4 § 1.]

Student financial aid program: RCW 28B.10.800 through 28B.10.824.

26.30.020 Minors—Contracts—Educational purposes—Enforceability. Any written obligation signed by a minor sixteen or more years of age in consideration of an educational loan received by him from any person is enforceable as if he were an adult at the time of execution, but only if prior to the making of the educational loan an educational institution has certified in writing to the person making the educational loan that the minor is enrolled, or has been accepted for enrollment, in the educational institution. [1970 ex.s. c 4 § 2.]

Contracts of minors, disaffirmance: RCW 26.28.030.

26.30.900 Uniformity of interpretation. This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it. [1970 ex.s. c 4 § 3.]

26.30.910 Short title. This chapter may be cited as the "Uniform Minor Student Capacity to Borrow Act." [1970 ex.s. c 4 § 4.]

26.30.920 Effective date—1970 ex.s. c 4. This chapter shall take effect on July 1, 1970. [1970 ex.s. c 4 § 5.]

Chapter 26.33

ADOPTION

Sections

26.33.010	Intent.
26.33.020	Definitions.
26.33.030	Petitions—Place of filing—Consolidation of petitions and hearings.
26.33.040	Petitions—Statements and findings about Indian Child Welfare Act and Soldiers and Sailors Civil Relief Act required.
26.33.050	Validity of consents, relinquishments, or orders of termination from other jurisdictions—Burden of proof.
26.33.060	Hearings—Procedure—Witnesses.
26.33.070	Appointment of guardian ad litem—When required—Payment of fees.
26.33.080	Petition for relinquishment—Filing—Written consent required.

- 26.33.090 Petition for relinquishment—Hearing—Temporary custody order—Notice—Order of relinquishment.
- 26.33.100 Petition for termination—Who may file—Contents—Time.
- 26.33.110 Petition for termination—Time and place of hearing—Notice of hearing and petition—Contents.
- 26.33.120 Termination—Grounds—Failure to appear.
- 26.33.130 Termination order—Effect.
- 26.33.140 Who may adopt or be adopted.
- 26.33.150 Petition for adoption—Filing—Contents—Preplacement report required.
- 26.33.160 Consent to adoption—When revocable—Procedure.
- 26.33.170 When consent to adoption not required.
- 26.33.180 Preplacement report required before placement with adoptive parents—Exception.
- 26.33.190 Preplacement report—Requirements—Fees.
- 26.33.200 Post-placement report—Requirements—Exception—Fees.
- 26.33.210 Preplacement or post-placement report—Department or agency may make report.
- 26.33.220 Preplacement and post-placement reports—When not required.
- 26.33.230 Notice of proceedings at which preplacement reports considered—Contents—Proof of service—Appearance—Waiver.
- 26.33.240 Petition for adoption—Hearing—Notice—Disposition.
- 26.33.250 Decree of adoption—Determination of place and date of birth.
- 26.33.260 Decree of adoption—Effect.
- 26.33.270 Decree of adoption—Protection of certain rights and benefits.
- 26.33.280 Decree of adoption—Transmittal to state registrar of vital statistics.
- 26.33.290 Decree of adoption—Duties of state registrar of vital statistics.
- 26.33.295 Open adoption agreements—Agreed orders—Enforcement.
- 26.33.300 Adoption statistical data.
- 26.33.310 Notice—Requirements—Waiver.
- 26.33.320 Adoption of hard to place children—Court's consideration of state's agreement with prospective adoptive parents.
- 26.33.330 Records sealed—Inspection—Fee.
- 26.33.340 Department and agency files confidential—Limited disclosure of information.
- 26.33.343 Search for birth parent or adopted child—Confidential intermediary.
- 26.33.345 Search for birth parent or adopted child—Limited release of information.
- 26.33.350 Medical reports—Requirements.
- 26.33.360 Petition by natural parent to set aside adoption—Costs—Time limit.
- 26.33.370 Permanent care and custody of a child—Assumption, relinquishment, or transfer except by court order or statute, when prohibited—Penalty.
- 26.33.380 Family and social history report required—Identity of natural parents confidential.
- 26.33.390 Information on adoption-related services.
- 26.33.400 Advertisements—Prohibitions—Exceptions—Application of consumer protection act.
- 26.33.410 Advertisements—Exemption.
- 26.33.900 Effective date—Application—1984 c 155.
- 26.33.901 Severability—1984 c 155.

Child selling and child buying, class C felony: RCW 9A.64.030.

Dependent and delinquent children: Title 13 RCW.

Descent and distribution—Adopted children: Chapter 11.04 RCW.

Paternity, determination: Chapter 26.26 RCW.

Welfare agencies for children: Title 13 RCW.

26.33.010 Intent. The legislature finds that the purpose of adoption is to provide stable homes for children. Adoptions should be handled efficiently, but the rights of all parties must be protected. The guiding principle must be determining what is in the best interest of the child. It is the intent of the legislature that this chapter be used only as a means for placing children in adoptive homes and not as a

means for parents to avoid responsibility for their children unless the department, an agency, or a prospective adoptive parent is willing to assume the responsibility for the child. [1984 c 155 § 1.]

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

(1) "Alleged father" means a person whose parent-child relationship has not been terminated, who is not a presumed father under chapter 26.26 RCW, and who alleges himself or whom a party alleges to be the father of the child. It includes a person whose marriage to the mother was terminated more than three hundred days before the birth of the child or who was separated from the mother more than three hundred days before the birth of the child.

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

(3) "Adoptee" means a person who is to be adopted or who has been adopted.

(4) "Adoptive parent" means the person or persons who seek to adopt or have adopted an adoptee.

(5) "Court" means the superior court.

(6) "Department" means the department of social and health services.

(7) "Agency" means any public or private association, corporation, or individual licensed or certified by the department as a child placing agency under chapter 74.15 RCW or as an adoption agency.

(8) "Parent" means the natural or adoptive mother or father of a child, including a presumed father under chapter 26.26 RCW. It does not include any person whose parent-child relationship has been terminated by a court of competent jurisdiction.

(9) "Legal guardian" means the department, an agency, or a person, other than a parent or stepparent, appointed by the court to promote the child's general welfare, with the authority and duty to make decisions affecting the child's development.

(10) "Guardian ad litem" means a person, not related to a party to the action, appointed by the court to represent the best interests of a party who is under a legal disability.

(11) "Relinquish or relinquishment" means the voluntary surrender of custody of a child to the department, an agency, or prospective adoptive parents.

(12) "Individual approved by the court" or "qualified salaried court employee" means a person who has a master's degree in social work or a related field and one year of experience in social work, or a bachelor's degree and two years of experience in social work, and includes a person not having such qualifications only if the court makes specific findings of fact that are entered of record establishing that the person has reasonably equivalent experience.

(13) "Birth parent" means the biological mother or biological or alleged father of a child, including a presumed father under chapter 26.26 RCW, whether or not any such person's parent-child relationship has been terminated by a court of competent jurisdiction. "Birth parent" does not include a biological mother or biological or alleged father, including a presumed father under chapter 26.26 RCW, if the parent-child relationship was terminated because of an act

for which the person was found guilty under chapter 9A.42 or 9A.44 RCW. [1990 c 146 § 1; 1984 c 155 § 2.]

26.33.030 Petitions—Place of filing—Consolidation of petitions and hearings. (1) A petition under this chapter may be filed in the superior court of the county in which the petitioner is a resident or of the county in which the adoptee is domiciled.

(2) A petition under this chapter may be consolidated with any other petition under this chapter. A hearing under this chapter may be consolidated with any other hearing under this chapter. [1984 c 155 § 3.]

26.33.040 Petitions—Statements and findings about Indian Child Welfare Act and Soldiers and Sailors Civil Relief Act required. (1) Every petition filed in proceedings under this chapter shall contain a statement alleging whether the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq., applies to the proceeding. Every order or decree entered in any proceeding under this chapter shall contain a finding that the Indian Child Welfare Act does or does not apply. In proceedings under this chapter, the adoption facilitator shall file a sworn statement documenting efforts to determine whether the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq., applies.

(2) Every petition filed in proceedings under this chapter shall contain a statement alleging whether the Soldiers and Sailors Civil Relief Act of 1940, 50 U.S.C. Sec. 501 et seq., applies to the proceeding. Every order or decree entered in any proceeding under this chapter shall contain a finding that the Soldiers and Sailors Civil Relief Act of 1940 does or does not apply. [1991 c 136 § 1; 1984 c 155 § 4.]

26.33.050 Validity of consents, relinquishments, or orders of termination from other jurisdictions—Burden of proof. Any consent, relinquishment, or order of termination that would be valid in the jurisdiction in which it was executed or obtained, and which comports with due process of law, is valid in Washington state, but the burden of proof as to validity and compliance is on the petitioner. [1984 c 155 § 5.]

26.33.060 Hearings—Procedure—Witnesses. All hearings under this chapter shall be heard by the court without a jury. Unless the parties and the court agree otherwise, proceedings of contested hearings shall be recorded. The general public shall be excluded and only those persons shall be admitted whose presence is requested by any person entitled to notice under this chapter or whom the judge finds to have a direct interest in the case or in the work of the court. Persons so admitted shall not disclose any information obtained at the hearing which would identify the individual adoptee or parent involved. The court may require the presence of witnesses deemed necessary to the disposition of the petition, including persons making any report, study, or examination which is before the court if those persons are reasonably available. A person who has executed a valid waiver need not appear at the hearing. If the court finds that it is in the child's best interest, the child may be excluded from the hearing. [1984 c 155 § 6.]

26.33.070 Appointment of guardian ad litem—When required—Payment of fees. (1) The court shall appoint a guardian ad litem for any parent or alleged father under eighteen years of age in any proceeding under this chapter. The court may appoint a guardian ad litem for a child adoptee or any incompetent party in any proceeding under this chapter. The guardian ad litem for a parent or alleged father, in addition to determining what is in the best interest of the party, shall make an investigation and report to the court concerning whether any written consent to adoption or petition for relinquishment signed by the parent or alleged father was signed voluntarily and with an understanding of the consequences of the action.

(2) The county in which a petition is filed shall pay the fees of a guardian ad litem or attorney appointed under this chapter. [1984 c 155 § 7.]

26.33.080 Petition for relinquishment—Filing—Written consent required. (1) A parent, an alleged father, the department, or an agency may file with the court a petition to relinquish a child to the department or an agency. The parent's or alleged father's written consent to adoption shall accompany the petition. The written consent of the department or the agency to assume custody shall be filed with the petition.

(2) A parent, alleged father, or prospective adoptive parent may file with the court a petition to relinquish a child to the prospective adoptive parent. The parent's or alleged father's written consent to adoption shall accompany the petition. The written consent of the prospective adoptive parent to assume custody shall be filed with the petition. The identity of the prospective adoptive parent need not be disclosed to the petitioner.

(3) A petition for relinquishment, together with the written consent to adoption, may be filed before the child's birth. If the child is an Indian child as defined in 25 U.S.C. Sec. 1903(4), the petition and consent shall not be signed until at least ten days after the child's birth and shall be recorded before a court of competent jurisdiction pursuant to 25 U.S.C. Sec. 1913(a). [1987 c 170 § 3; 1985 c 421 § 1; 1984 c 155 § 8.]

Severability—1987 c 170: See note following RCW 13.04.030.

26.33.090 Petition for relinquishment—Hearing—Temporary custody order—Notice—Order of relinquishment. (1) The court shall set a time and place for a hearing on the petition for relinquishment. The hearing may not be held sooner than forty-eight hours after the child's birth or the signing of all necessary consents to adoption, whichever is later. However, if the child is an Indian child, the hearing shall not be held sooner than ten days after the child's birth, and no consent shall be valid unless signed at least ten days after the child's birth and recorded before a court of competent jurisdiction pursuant to 25 U.S.C. Sec. 1913(a). Except where the child is an Indian child, the court may enter a temporary order giving custody of the child to the prospective adoptive parent, if a preplacement report has been filed, or to the department or agency to whom the child will be relinquished pending the court's hearing on the petition. If the child is an Indian child, the court may enter a temporary custody order under this subsection only if the requirements

of 25 U.S.C. Sec. 1913(a) regarding voluntary foster care placement have been satisfied.

(2) Notice of the hearing shall be served on any relinquishing parent or alleged father, and the department or agency in the manner prescribed by RCW 26.33.310. If the child is an Indian child, notice of the hearing shall also be served on the child's tribe in the manner prescribed by RCW 26.33.310.

(3) The court may require the parent to appear personally and enter his or her consent to adoption on the record. However, if the child is an Indian child, the court shall require the consenting parent to appear personally before a court of competent jurisdiction to enter on the record his or her consent to the relinquishment or adoption. The court shall determine that any written consent has been validly executed, and if the child is an Indian child, such court shall further certify that the requirements of 25 U.S.C. Sec. 1913(a) have been satisfied. If the court determines it is in the best interests of the child, the court shall approve the petition for relinquishment.

(4) If the court approves the petition, it shall award custody of the child to the department, agency, or prospective adoptive parent, who shall be appointed legal guardian. The legal guardian shall be financially responsible for support of the child until further order of the court. The court shall also enter an order pursuant to RCW 26.33.130 terminating the parent-child relationship of the parent and the child.

(5) An order of relinquishment to an agency or the department shall include an order authorizing the agency to place the child with a prospective adoptive parent. [1987 c 170 § 4; 1985 c 421 § 2; 1984 c 155 § 9.]

Severability—1987 c 170: See note following RCW 13.04.030.

26.33.100 Petition for termination—Who may file—Contents—Time. (1) A petition for termination of the parent-child relationship of a parent or alleged father who has not executed a written consent to adoption may be filed by:

- (a) The department or an agency;
- (b) The prospective adoptive parent to whom a child has been or may be relinquished if the prospective adoptive parent has filed or consented to a petition for relinquishment; or
- (c) The prospective adoptive parent if he or she seeks to adopt the child of his or her spouse.

(2) The petition for termination of the parent-child relationship shall contain a statement of facts identifying the petitioner, the parents, the legal guardian, a guardian ad litem for a party, any alleged father, and the child. The petition shall state the facts forming the basis for the petition and shall be signed under penalty of perjury or be verified.

(3) The petition may be filed before the child's birth. [1985 c 421 § 3; 1984 c 155 § 10.]

26.33.110 Petition for termination—Time and place of hearing—Notice of hearing and petition—Contents. (1) The court shall set a time and place for a hearing on the petition for termination of the parent-child relationship, which shall not be held sooner than forty-eight hours after the child's birth. However, if the child is an Indian child,

the hearing shall not be held sooner than ten days after the child's birth and the time of the hearing shall be extended up to twenty additional days from the date of the scheduled hearing upon the motion of the parent, Indian custodian, or the child's tribe.

(2) Notice of the hearing shall be served on the petitioner, the nonconsenting parent or alleged father, the legal guardian of a party, and the guardian ad litem of a party, in the manner prescribed by RCW 26.33.310. If the child is an Indian child, notice of the hearing shall also be served on the child's tribe in the manner prescribed by 25 U.S.C. Sec. 1912(a).

(3) Except as otherwise provided in this section, the notice of the petition shall:

(a) State the date and place of birth. If the petition is filed prior to birth, the notice shall state the approximate date and location of conception of the child and the expected date of birth, and shall identify the mother;

(b) Inform the nonconsenting parent or alleged father that: (i) He or she has a right to be represented by counsel and that counsel will be appointed for an indigent person who requests counsel; and (ii) failure to respond to the termination action within twenty days of service will result in the termination of his or her parent-child relationship with respect to the child;

(c) Inform an alleged father that failure to file a claim of paternity under chapter 26.26 RCW or to respond to the petition, within twenty days of the date of service of the petition is grounds to terminate his parent-child relationship with respect to the child;

(d) Inform an alleged father of an Indian child that if he acknowledges paternity of the child or if his paternity of the child is established prior to the termination of the parent-child relationship, that his parental rights may not be terminated unless he: (i) Gives valid consent to termination, or (ii) his parent-child relationship is terminated involuntarily pursuant to chapter 26.33 or 13.34 RCW. [1987 c 170 § 5; 1985 c 421 § 4; 1984 c 155 § 11.]

Severability—1987 c 170: See note following RCW 13.04.030.

26.33.120 Termination—Grounds—Failure to appear. (1) Except in the case of an Indian child and his or her parent, the parent-child relationship of a parent may be terminated upon a showing by clear, cogent, and convincing evidence that it is in the best interest of the child to terminate the relationship and that the parent has failed to perform parental duties under circumstances showing a substantial lack of regard for his or her parental obligations and is withholding consent to adoption contrary to the best interest of the child.

(2) Except in the case of an Indian child and his or her alleged father, the parent-child relationship of an alleged father who appears and claims paternity may be terminated upon a showing by clear, cogent, and convincing evidence that it is in the best interest of the child to terminate the relationship and that:

(a) The alleged father has failed to perform parental duties under circumstances showing a substantial lack of regard for his parental obligations and is withholding consent to adoption contrary to the best interest of the child; or

(b) He is not the father.

(3) The parent-child relationship of a parent or an alleged father may be terminated if the parent or alleged father fails to appear after being notified of the hearing in the manner prescribed by RCW 26.33.310.

(4) The parent-child relationship of an Indian child and his or her parent or alleged father where paternity has been claimed or established, may be terminated only pursuant to the standards set forth in 25 U.S.C. Sec. 1912(f). [1987 c 170 § 6; 1984 c 155 § 12.]

Severability—1987 c 170: See note following RCW 13.04.030.

26.33.130 Termination order—Effect. (1) If the court determines, after a hearing, that the parent-child relationship should be terminated pursuant to RCW 26.33.090 or 26.33.120, the court shall enter an appropriate order terminating the parent-child relationship.

(2) An order terminating the parent-child relationship divests the parent and the child of all legal rights, powers, privileges, immunities, duties, and obligations with respect to each other except past-due child support obligations owed by the parent.

(3) The parent-child relationship may be terminated with respect to one parent without affecting the parent-child relationship between the child and the other parent.

(4) The parent or alleged father whose parent-child relationship with the child has been terminated is not thereafter entitled to notice of proceedings for the adoption of the child by another, nor has the parent or alleged father any right to contest the adoption or otherwise to participate in the proceedings unless an appeal from the termination order is pending or unless otherwise ordered by the court. [1984 c 155 § 13.]

26.33.140 Who may adopt or be adopted. (1) Any person may be adopted, regardless of his or her age or residence.

(2) Any person who is legally competent and who is eighteen years of age or older may be an adoptive parent. [1984 c 155 § 14.]

26.33.150 Petition for adoption—Filing—Contents—Preplacement report required. (1) An adoption proceeding is initiated by filing with the court a petition for adoption. The petition shall be filed by the prospective adoptive parent.

(2) A petition for adoption shall contain the following information:

- (a) The name and address of the petitioner;
- (b) The name, if any, gender, and place and date of birth, if known, of the adoptee;
- (c) A statement that the child is or is not an Indian child covered by the Indian Child Welfare Act; and
- (d) The name and address of the department or any agency, legal guardian, or person having custody of the child.

(3) The written consent to adoption of any person, the department, or agency which has been executed shall be filed with the petition.

(4) The petition shall be signed under penalty of perjury by the petitioner. If the petitioner is married, the petitioner's spouse shall join in the petition.

(5) If a preplacement report prepared pursuant to RCW 26.33.190 has not been previously filed with the court, the preplacement report shall be filed with the petition for adoption. [1984 c 155 § 15.]

26.33.160 Consent to adoption—When revocable—Procedure. (1) Except as otherwise provided in RCW 26.33.170, consent to an adoption shall be required of the following if applicable:

- (a) The adoptee, if fourteen years of age or older;
- (b) The parents and any alleged father of an adoptee under eighteen years of age;
- (c) An agency or the department to whom the adoptee has been relinquished pursuant to RCW 26.33.080; and
- (d) The legal guardian of the adoptee.

(2) Except as otherwise provided in subsection (4)(h) of this section, consent to adoption is revocable by the consenting party at any time before the consent is approved by the court. The revocation may be made in either of the following ways:

- (a) Written revocation may be delivered or mailed to the clerk of the court before approval; or
- (b) Written revocation may be delivered or mailed to the clerk of the court after approval, but only if it is delivered or mailed within forty-eight hours after a prior notice of revocation that was given within forty-eight hours after the birth of the child. The prior notice of revocation shall be given to the agency or person who sought the consent and may be either oral or written.

(3) Except as provided in subsections (2)(b) and (4)(h) of this section and in this subsection, a consent to adoption may not be revoked after it has been approved by the court. Within one year after approval, a consent may be revoked for fraud or duress practiced by the person, department, or agency requesting the consent, or for lack of mental competency on the part of the person giving the consent at the time the consent was given. A written consent to adoption may not be revoked more than one year after it is approved by the court.

(4) Except as provided in (h) of this subsection, the written consent to adoption shall be signed under penalty of perjury and shall state that:

- (a) It is given subject to approval of the court;
- (b) It has no force or effect until approved by the court;
- (c) The birth parent is or is not of Native American or Alaska native ancestry;
- (d) The consent will not be presented to the court until forty-eight hours after it is signed or forty-eight hours after the birth of the child, whichever occurs later;
- (e) It is revocable by the consenting party at any time before its approval by the court. It may be revoked in either of the following ways:

- (i) Written revocation may be delivered or mailed to the clerk of the court before approval of the consent by the court; or
- (ii) Written revocation may be delivered or mailed to the clerk of the court after approval, but only if it is delivered or mailed within forty-eight hours after a prior notice of revocation that was given within forty-eight hours after the birth of the child. The prior notice of revocation shall be

given to the agency or person who sought the consent and may be either oral or written;

(f) The address of the clerk of court where the consent will be presented is included;

(g) Except as provided in (h) of this subsection, after it has been approved by the court, the consent is not revocable except for fraud or duress practiced by the person, department, or agency requesting the consent or for lack of mental competency on the part of the person giving the consent at the time the consent was given. A written consent to adoption may not be revoked more than one year after it is approved by the court;

(h) In the case of a consent to an adoption of an Indian child, no consent shall be valid unless the consent is executed in writing more than ten days after the birth of the child and unless the consent is recorded before a court of competent jurisdiction pursuant to 25 U.S.C. Sec. 1913(a). Consent may be withdrawn for any reason at any time prior to the entry of the final decree of adoption. Consent may be withdrawn for fraud or duress within two years of the entry of the final decree of adoption. Revocation of the consent prior to a final decree of adoption, may be delivered or mailed to the clerk of the court or made orally to the court which shall certify such revocation. Revocation of the consent is effective if received by the clerk of the court prior to the entry of the final decree of adoption or made orally to the court at any time prior to the entry of the final decree of adoption. Upon withdrawal of consent, the court shall return the child to the parent unless the child has been taken into custody pursuant to RCW 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW 13.34.060, or placed in foster care pursuant to RCW 13.34.130; and

(i) The following statement has been read before signing the consent:

I understand that my decision to relinquish the child is an extremely important one, that the legal effect of this relinquishment will be to take from me all legal rights and obligations with respect to the child, and that an order permanently terminating all of my parental rights to the child will be entered. I also understand that there are social services and counseling services available in the community, and that there may be financial assistance available through state and local governmental agencies.

(5) A written consent to adoption which meets all the requirements of this chapter but which does not name or otherwise identify the adopting parent is valid if it contains a statement that it is voluntarily executed without disclosure of the name or other identification of the adopting parent.

(6) There must be a witness to the consent of the parent or alleged father. The witness must be at least eighteen years of age and selected by the parent or alleged father. The consent document shall contain a statement identifying by name, address, and relationship the witness selected by the parent or alleged father. [1991 c 136 § 2; 1990 c 146 § 2; 1987 c 170 § 7; 1985 c 421 § 5; 1984 c 155 § 16.]

Severability—1987 c 170: See note following RCW 13.04.030.

26.33.170 When consent to adoption not required.

An agency's, the department's, or a legal guardian's consent to adoption may be dispensed with if the court determines by clear, cogent and convincing evidence that the proposed adoption is in the best interests of the adoptee. [1988 c 203 § 1; 1984 c 155 § 17.]

26.33.180 Preplacement report required before placement with adoptive parents—Exception. Except as provided in RCW 26.33.220, a child shall not be placed with prospective adoptive parents until a preplacement report has been filed with the court. [1984 c 155 § 18.]

26.33.190 Preplacement report—Requirements—Fees. (1) Any person may at any time request an agency, the department, an individual approved by the court, or a qualified salaried court employee to prepare a preplacement report. A certificate signed under penalty of perjury by the person preparing the report specifying his or her qualifications as required in this chapter shall be attached to or filed with each preplacement report and shall include a statement of training or experience that qualifies the person preparing the report to discuss relevant adoption issues. A person may have more than one preplacement report prepared. All preplacement reports shall be filed with the court in which the petition for adoption is filed.

(2) The preplacement report shall be a written document setting forth all relevant information relating to the fitness of the person requesting the report as an adoptive parent. The report shall be based on a study which shall include an investigation of the home environment, family life, health, facilities, and resources of the person requesting the report. The report shall include a list of the sources of information on which the report is based. The report shall include a recommendation as to the fitness of the person requesting the report to be an adoptive parent. The report shall also verify that the following issues were discussed with the prospective adoptive parents:

(a) The concept of adoption as a lifelong developmental process and commitment;

(b) The potential for the child to have feelings of identity confusion and loss regarding separation from the birth parents;

(c) Disclosure of the fact of adoption to the child;

(d) The child's possible questions about birth parents and relatives; and

(e) The relevance of the child's racial, ethnic, and cultural heritage.

(3) All preplacement reports shall include an investigation of the conviction record, pending charges, or disciplinary board final decisions of prospective adoptive parents. The investigation shall include an examination of state and national criminal identification data provided by the Washington state patrol criminal identification system as described in chapter 43.43 RCW.

(4) An agency, the department, or a court approved individual may charge a reasonable fee based on the time spent in conducting the study and preparing the preplacement report. The court may set a reasonable fee for conducting the study and preparing the report when a court employee has prepared the report. An agency, the department, a court

approved individual, or the court may reduce or waive the fee if the financial condition of the person requesting the report so warrants. An agency's, the department's, or court approved individual's, fee is subject to review by the court upon request of the person requesting the report.

(5) The person requesting the report shall designate to the agency, the department, the court approved individual, or the court in writing the county in which the preplacement report is to be filed. If the person requesting the report has not filed a petition for adoption, the report shall be indexed in the name of the person requesting the report and a cause number shall be assigned. A fee shall not be charged for filing the report. The applicable filing fee may be charged at the time a petition governed by this chapter is filed. Any subsequent preplacement reports shall be filed together with the original report.

(6) A copy of the completed preplacement report shall be delivered to the person requesting the report.

(7) A person may request that a report not be completed. A reasonable fee may be charged for the value of work done. [1991 c 136 § 3; 1990 c 146 § 3; 1984 c 155 § 19.]

26.33.200 Post-placement report—Requirements—Exception—Fees. (1) Except as provided in RCW 26.33.220, at the time the petition for adoption is filed, the court shall order a post-placement report made to determine the nature and adequacy of the placement and to determine if the placement is in the best interest of the child. The report shall be prepared by an agency, the department, an individual approved by the court, or a qualified salaried court employee appointed by the court. A certificate signed under penalty of perjury by the person preparing the report specifying his or her qualifications as required in this chapter shall be attached to or filed with each post-placement report. The report shall be in writing and contain all reasonably available information concerning the physical and mental condition of the child, home environment, family life, health, facilities and resources of the petitioners, and any other facts and circumstances relating to the propriety and advisability of the adoption. The report shall also include, if relevant, information on the child's special cultural heritage, including membership in any Indian tribe or band. The report shall be filed within sixty days of the date of appointment, unless the time is extended by the court. The preplacement report shall be made available to the person appointed to make the post-placement report.

(2) A fee may be charged for preparation of the post-placement report in the same manner as for a preplacement report under RCW 26.33.190. [1990 c 146 § 4; 1984 c 155 § 20.]

26.33.210 Preplacement or post-placement report—Department or agency may make report. The department or an agency having the custody of a child may make the preplacement or post-placement report on a petitioner for the adoption of that child. [1984 c 155 § 21.]

26.33.220 Preplacement and post-placement reports—When not required. Unless otherwise ordered by the court, the reports required by RCW 26.33.190 are not required if the petitioner seeks to adopt the child of the

petitioner's spouse. The reports required by RCW 26.33.190 and 26.33.200 are not required if the adoptee is eighteen years of age or older. [1984 c 155 § 22.]

26.33.230 Notice of proceedings at which preplacement reports considered—Contents—Proof of service—Appearance—Waiver. The petitioner shall give not less than three days written notice of any proceeding at which a preplacement report will be considered to all agencies, any court approved individual, or any court employee requested by the petitioner to make a preplacement report. The notice shall state the name of the petitioner, the cause number of the proceeding, the time and place of the hearing, and the object of the hearing. Proof of service on the agency or court approved individual in form satisfactory to the court shall be furnished. The agency or court approved individual may appear at the hearing and give testimony concerning any matters relevant to the relinquishment or the adoption and its recommendation as to the fitness of petitioners as parents. The agency or court approved individual may in writing acknowledge notice and state to the court that the agency or court approved individual does not desire to participate in the hearing or the agency or court approved individual may in writing waive notice of any hearing. [1984 c 155 § 24.]

26.33.240 Petition for adoption—Hearing—Notice—Disposition. (1) After the reports required by RCW 26.33.190 and 26.33.200 have been filed, the court shall schedule a hearing on the petition for adoption upon request of the petitioner for adoption. Notice of the date, time, and place of hearing shall be given to the petitioner and any person or agency whose consent to adoption is required under RCW 26.33.160, unless the person or agency has waived in writing the right to receive notice of the hearing. If the child is an Indian child, notice shall also be given to the child's tribe. Notice shall be given in the manner prescribed by RCW 26.33.310.

(2) Notice of the adoption hearing shall also be given to any person who or agency which has prepared a preplacement report. The notice shall be given in the manner prescribed by RCW 26.33.230.

(3) If the court determines, after review of the petition, preplacement and post-placement reports, and other evidence introduced at the hearing, that all necessary consents to adoption are valid or have been dispensed with pursuant to RCW 26.33.170 and that the adoption is in the best interest of the adoptee, and, in the case of an adoption of an Indian child, that the adoptive parents are within the placement preferences of 25 U.S.C. Sec. 1915 or good cause to the contrary has been shown on the record, the court shall enter a decree of adoption pursuant to RCW 26.33.250.

(4) If the court determines the petition should not be granted because the adoption is not in the best interest of the child, the court shall make appropriate provision for the care and custody of the child. [1987 c 170 § 8; 1984 c 155 § 23.]

Severability—1987 c 170: See note following RCW 13.04.030.

26.33.250 Decree of adoption—Determination of place and date of birth. (1) A decree of adoption shall provide, as a minimum, the following information:

- (a) The full original name of the person to be adopted;
- (b) The full name of each petitioner for adoption;
- (c) Whether the petitioner or petitioners are husband and wife, stepparent, or a single parent;
- (d) The full new name of the person adopted, unless the name of the adoptee is not to be changed;
- (e) Information to be incorporated in any new certificate of birth to be issued by the state or territorial registrar of vital records; and
- (f) The adoptee's date of birth and place of birth as determined under subsection (3) of this section.

(2) Except for the names of the person adopted and the petitioner, information set forth in the decree that differs from that shown on the original birth certificate, alternative birth record, or other information used in lieu of such a record shall be included in the decree only upon a clear showing that the information in the original record is erroneous.

(3) In determining the date and place of birth of a person born outside the United States, the court shall:

- (a) If available, enter in the decree the exact date and place of birth as stated in the birth certificate from the country of origin or in the United States department of state's report of birth abroad or in the documents of the United States immigration and naturalization service;
- (b) If the exact place of birth is unknown, enter in the decree such information as may be known and designate a place of birth in the country of origin;
- (c) If the exact date of birth is unknown, determine a date of birth based upon medical testimony as to the probable chronological age of the adoptee and other evidence regarding the adoptee's age that the court finds appropriate to consider;

(d) In any other case where documents of the United States immigration and naturalization service are not available, the court shall determine the date and place of birth based upon such evidence as the court in its discretion determines appropriate. [1984 c 155 § 25.]

26.33.260 Decree of adoption—Effect. The entry of a decree of adoption divests any parent or alleged father who is not married to the adoptive parent or who has not joined in the petition for adoption of all legal rights and obligations in respect to the adoptee, except past-due child support obligations. The adoptee shall be free from all legal obligations of obedience and maintenance in respect to the parent. The adoptee shall be, to all intents and purposes, and for all legal incidents, the child, legal heir, and lawful issue of the adoptive parent, entitled to all rights and privileges, including the right of inheritance and the right to take under testamentary disposition, and subject to all the obligations of a natural child of the adoptive parent. [1984 c 155 § 26.]

Inheritance by adopted child: RCW 11.04.085.

26.33.270 Decree of adoption—Protection of certain rights and benefits. An order or decree entered under this chapter shall not disentitle a child to any benefit due the

child from any third person, agency, state, or the United States. Action under this chapter shall not affect any rights and benefits that a native American child derives from the child's descent from a member of an Indian tribe or band. [1984 c 155 § 27.]

26.33.280 Decree of adoption—Transmittal to state registrar of vital statistics. After a decree of adoption is entered, as soon as the time for appeal has expired, or if an appeal is taken, and the adoption is affirmed on appeal, the clerk of the court shall transmit to the state registrar of vital statistics a certified copy of the decree, along with any additional information and fees required by the registrar. [1984 c 155 § 28.]

26.33.290 Decree of adoption—Duties of state registrar of vital statistics. Upon receipt of a decree of adoption, the state registrar of vital statistics shall:

(1) Return the decree to the court clerk if all information required by RCW 26.33.250 is not included in the decree;

(2) If the adoptee was born in a state other than Washington, or in a territory of the United States, forward the certificate of adoption to the appropriate health record recording agency of the state or territory of the United States in which the birth occurred;

(3) If the adoptee was born outside of the United States or its territories, issue a new certificate of birth by the office of the state registrar of vital statistics which reflects the information contained in the decree. [1984 c 155 § 29.]

Vital statistics: Chapter 70.58 RCW.

26.33.295 Open adoption agreements—Agreed orders—Enforcement. (1) Nothing in this chapter shall be construed to prohibit the parties to a proceeding under this chapter from entering into agreements regarding communication with or contact between child adoptees, adoptive parents, and a birth parent or parents.

(2) Agreements regarding communication with or contact between child adoptees, adoptive parents, and a birth parent or parents shall not be legally enforceable unless the terms of the agreement are set forth in a written court order entered in accordance with the provisions of this section. The court shall not enter a proposed order unless the terms of such order have been approved in writing by the prospective adoptive parents, any birth parent whose parental rights have not previously been terminated, and, if the child is in the custody of the department or a licensed child-placing agency, a representative of the department or child-placing agency. If the child is represented by an attorney or guardian ad litem in a proceeding under this chapter or in any other child-custody proceeding, the terms of the proposed order also must be approved in writing by the child's representative. An agreement under this section need not disclose the identity of the parties to be legally enforceable. The court shall not enter a proposed order unless the court finds that the communication or contact between the child adoptee, the adoptive parents, and a birth parent or parents as agreed upon and as set forth in the proposed order, would be in the child adoptee's best interests.

(3) Failure to comply with the terms of an agreed order regarding communication or contact that has been entered by the court pursuant to this section shall not be grounds for setting aside an adoption decree or revocation of a written consent to an adoption after that consent has been approved by the court as provided in this chapter.

(4) An agreed order entered pursuant to this section may be enforced by a civil action and the prevailing party in that action may be awarded, as part of the costs of the action, a reasonable amount to be fixed by the court as attorneys' fees. The court shall not modify an agreed order under this section unless it finds that the modification is necessary to serve the best interests of the child adoptee, and that: (a) The modification is agreed to by the adoptive parent and the birth parent or parents; or (b) exceptional circumstances have arisen since the agreed order was entered that justify modification of the order. [1990 c 285 § 4.]

~~Findings—Purpose—Severability—1990 c 285:~~ See notes following RCW 74.04.005.

26.33.300 Adoption statistical data. The department of health shall be a depository for statistical data concerning adoption. It shall furnish to the clerk of each county a data card which shall be completed and filed with the clerk on behalf of each petitioner. The clerk shall forward the completed cards to the department of health which shall compile the data and publish reports summarizing the data. A birth certificate shall not be issued showing the petitioner as the parent of any child adopted in the state of Washington until a data card has been completed and filed. [1991 c 3 § 288; 1990 c 146 § 5; 1984 c 155 § 30.]

26.33.310 Notice—Requirements—Waiver. (1) Petitions governed by this chapter shall be served in the same manner as a complaint in a civil action under the superior court civil rules. Subsequent notice, papers, and pleadings may be served in the manner provided in superior court civil rules.

(2) If personal service on the parent or any alleged father, either within or without this state, cannot be given, notice shall be given: (a) By registered mail, mailed at least twenty days before the hearing to the person's last known address; and (b) by publication at least once a week for three consecutive weeks with the first publication date at least twenty-five days before the hearing. Publication shall be in a legal newspaper in the city or town of the last known address within the United States and its territories of the parent or alleged father, whether within or without this state, or, if no address is known or the last known address is not within the United States and its territories, in the city or town where the proceeding has been commenced.

(3) Notice and appearance may be waived by the department, an agency, a parent, or an alleged father before the court or in a writing signed under penalty of perjury. The waiver shall contain the current address of the department, agency, parent, or alleged father. The face of the waiver for a hearing on termination of the parent-child relationship shall contain language explaining the meaning and consequences of the waiver and the meaning and consequences of termination of the parent-child relationship. A person or agency who has executed a waiver shall not be

required to appear except in the case of an Indian child where consent to termination or adoption must be certified before a court of competent jurisdiction pursuant to 25 U.S.C. Sec. 1913(a).

(4) If a person entitled to notice is known to the petitioner to be unable to read or understand English, all notices, if practicable, shall be given in that person's native language or through an interpreter.

(5) Where notice to an Indian tribe is to be provided pursuant to this chapter and the department is not a party to the proceeding, notice shall be given to the tribe at least ten business days prior to the hearing by registered mail return receipt requested. [1987 c 170 § 9; 1985 c 421 § 6; 1984 c 155 § 31.]

~~Severability—1987 c 170:~~ See note following RCW 13.04.030.

26.33.320 Adoption of hard to place children—Court's consideration of state's agreement with prospective adoptive parents. (1) In deciding whether to grant a petition for adoption of a hard to place child and in reviewing any request for the vacation or modification of a decree of adoption, the superior court shall consider any agreement made or proposed to be made between the department and any prospective adoptive parent for any payment or payments which have been provided or which are to be provided by the department in support of the adoption of such child. Before the date of the hearing on the petition to adopt, vacate, or modify an adoption decree, the department shall file as part of the adoption file with respect to the child a copy of any initial agreement, together with any changes made in the agreement, or in the related standards.

(2) If the court, in its judgment, finds the provision made in an agreement to be inadequate, it may make any recommendation as it deems warranted with respect to the agreement to the department. The court shall not, however, solely by virtue of this section, be empowered to direct the department to make payment. This section shall not be deemed to limit any other power of the superior court with respect to the adoption and any related matter. [1984 c 155 § 32.]

26.33.330 Records sealed—Inspection—Fee. (1) All records of any proceeding under this chapter shall be sealed and shall not be thereafter open to inspection by any person except upon order of the court for good cause shown, or except by using the procedure described in RCW 26.33.343.

(2) The state registrar of vital statistics may charge a reasonable fee for the review of any of its sealed records. [1990 c 145 § 3; 1984 c 155 § 33.]

26.33.340 Department and agency files confidential—Limited disclosure of information. Department and agency files regarding an adoption shall be confidential except the department or agency may disclose nonidentifying information upon the receipt of a verified written request for the information from the adoptive parent, the adoptee, or the natural parent. Identifying information may also be disclosed through the procedure described in RCW 26.33.343. [1990 c 145 § 4; 1984 c 155 § 34.]

26.33.343 Search for birth parent or adopted child—Confidential intermediary. (1) An adopted person over the age of twenty-one years, or under twenty-one with the permission of the adoptive parent, or a birth parent or member of the birth parent's family after the adoptee has reached the age of twenty-one may petition the court to appoint a confidential intermediary. The intermediary shall search for and discreetly contact the birth parent or adopted person, or if they are not alive or cannot be located within one year, the intermediary may attempt to locate members of the birth parent or adopted person's family. These family members shall be limited to the natural grandparents of the adult adoptee, a brother or sister of a natural parent, or the child of a natural parent. The court, for good cause shown, may allow a relative more distant in degree to petition for disclosure.

(2)(a) Confidential intermediaries appointed under this section shall complete training provided by a licensed adoption service or another court-approved entity and file an oath of confidentiality and a certificate of completion of training with the superior court of every county in which they serve as intermediaries. The court may dismiss an intermediary if the intermediary engages in conduct which violates professional or ethical standards.

(b) The confidential intermediary shall sign a statement of confidentiality substantially as follows:

I,, signing under penalty of contempt of court, state: "As a condition of appointment as a confidential intermediary, I affirm that, when adoption records are opened to me:

I will not disclose to the petitioner, directly or indirectly, any identifying information in the records without further order from the court.

I will conduct a diligent search for the person being sought and make a discreet and confidential inquiry as to whether that person will consent to being put in contact with the petitioner, and I will report back to the court the results of my search and inquiry.

If the person sought consents to be put in contact with the petitioner, I will attempt to obtain a dated, written consent from the person, and attach the original of the consent to my report to the court. If the person sought does not consent to the disclosure of his or her identity, I shall report the refusal of consent to the court.

I will not make any charge or accept any compensation for my services except as approved by the court, or as reimbursement from the petitioner for actual expenses incurred in conducting the search. These expenses will be listed in my report to the court.

I recognize that unauthorized release of confidential information may subject me to civil liability under state law, and subjects me to being found in contempt of court."

/s/ date

(c) The confidential intermediary shall be entitled to reimbursement from the petitioner for actual expenses in conducting the search. The court may authorize a reasonable fee in addition to these expenses.

(3) If the confidential intermediary is unable to locate the person being sought within one year, the confidential intermediary shall make a recommendation to the court as to

whether or not a further search is warranted, and the reasons for this recommendation.

(4) In the case of a petition filed on behalf of a natural parent or other blood relative of the adoptee, written consent of any living adoptive parent shall be obtained prior to contact with the adoptee if the adoptee:

(a) Is less than twenty-five years of age and is residing with the adoptive parent; or

(b) Is less than twenty-five years of age and is a dependent of the adoptive parent.

(5) If the confidential intermediary locates the person being sought, a discreet and confidential inquiry shall be made as to whether or not that person will consent to having his or her present identity disclosed to the petitioner. The identity of the petitioner shall not be disclosed to the party being sought. If the party being sought consents to the disclosure of his or her identity, the confidential intermediary shall obtain the consent in writing and shall include the original of the consent in the report filed with the court. If the party being sought refuses disclosure of his or her identity, the confidential intermediary shall report the refusal to the court and shall refrain from further and subsequent inquiry without judicial approval.

(6)(a) If the confidential intermediary obtains from the person being sought written consent for disclosure of his or her identity to the petitioner, the court may then order that the name and other identifying information of that person be released to the petitioner.

(b) If the person being sought is deceased, the court may order disclosure of the identity of the deceased to the petitioner.

(c) If the confidential intermediary is unable to contact the person being sought within one year, the court may order that the search be continued for a specified time or be terminated. [1990 c 145 § 1.]

26.33.345 Search for birth parent or adopted child—Limited release of information. (1) The department of social and health services, adoption agencies, and independent adoption facilitators shall release the name and location of the court where a relinquishment of parental rights or finalization of an adoption took place to an adult adoptee, a birth parent of an adult adoptee, an adoptive parent, a birth or adoptive grandparent of an adult adoptee, or an adult sibling of an adult adoptee, or the legal guardian of any of these.

(2) The department of vital records shall make available a noncertified copy of the original birth certificate of a child to the child's birth parents upon request. [1990 c 145 § 2.]

26.33.350 Medical reports—Requirements. (1) Every person, firm, society, association, or corporation receiving, securing a home for, or otherwise caring for a minor child shall transmit to the prospective adopting parent prior to placement and shall make available to all persons with whom a child has been placed by adoption a complete medical report containing all available information concerning the mental, physical, and sensory handicaps of the child. The report shall not reveal the identity of the natural parent of the child but shall include any available mental or physical health history of the natural parent that needs to be

known by the adoptive parent to facilitate proper health care for the child or that will assist the adoptive parent in maximizing the developmental potential of the child.

(2) Where available, the information provided shall include:

(a) A review of the birth family's and the child's previous medical history, if available, including the child's x-rays, examinations, hospitalizations, and immunizations. After July 1, 1992, medical histories shall be given on a standardized reporting form developed by the department;

(b) A physical exam of the child by a licensed physician with appropriate laboratory tests and x-rays;

(c) A referral to a specialist if indicated; and

(d) A written copy of the evaluation with recommendations to the adoptive family receiving the report. [1991 c 136 § 4; 1990 c 146 § 6; 1989 c 281 § 1; 1984 c 155 § 37.]

26.33.360 Petition by natural parent to set aside adoption—Costs—Time limit. (1) If a natural parent unsuccessfully petitions to have an adoption set aside, the court shall award costs, including reasonable attorneys' fees, to the adoptive parent.

(2) If a natural parent successfully petitions to have an adoption set aside, the natural parent shall be liable to the adoptive parent for both the actual expenditures and the value of services rendered by the adoptive parents in caring for the child.

(3) A natural parent who has executed a written consent to adoption shall not bring an action to set aside an adoption more than one year after the date the court approved the written consent. [1984 c 155 § 35.]

26.33.370 Permanent care and custody of a child—Assumption, relinquishment, or transfer except by court order or statute, when prohibited—Penalty. (1) Unless otherwise permitted by court order or statute, it is unlawful for any person, partnership, society, association, or corporation, except the parents, to assume the permanent care and custody of a child. Unless otherwise permitted by court order or statute, it is unlawful for any parent to relinquish or transfer to another person, partnership, society, association, or corporation the permanent care and custody of any child for adoption or any other purpose.

(2) Any relinquishment or transfer in violation of this section shall be void.

(3) Violation of this section is a gross misdemeanor. [1984 c 155 § 36.]

26.33.380 Family and social history report required—Identity of natural parents confidential. Every person, firm, society, association, or corporation receiving, securing a home for, or otherwise caring for a minor child shall transmit to the prospective adopting parent prior to placement and shall make available to all persons with whom a child has been placed by adoption, a family background and child and family social history report, which includes a chronological history of the circumstances surrounding the adoptive placement and any available psychiatric reports, psychological reports, court reports pertaining to dependency or custody, or school reports. Such

reports or information shall not reveal the identity of the natural parents of the child. [1989 c 281 § 2.]

26.33.390 Information on adoption-related services.

(1) All persons adopting a child through the department shall receive written information on the department's adoption-related services including, but not limited to, adoption support, family reconciliation services, archived records, mental health, and developmental disabilities.

(2) Any person adopting a child shall receive from the adoption facilitator written information on adoption-related services. This information may be that published by the department or any other social service provider and shall include information about how to find and evaluate appropriate adoption therapists, and may include other resources for adoption-related issues.

(3) Any person involved in providing adoption-related services shall respond to requests for written information by providing materials explaining adoption procedures, practices, policies, fees, and services. [1991 c 136 § 5; 1990 c 146 § 7; 1989 c 281 § 3.]

26.33.400 Advertisements—Prohibitions—Exceptions—Application of consumer protection act. (1) Unless the context clearly requires otherwise, "advertisement" means communication by newspaper, radio, television, handbills, placards or other print, broadcast, or the electronic medium. This definition applies throughout this section.

(2) No person or entity shall cause to be published for circulation, or broadcast on a radio or television station, within the geographic borders of this state, an advertisement of a child or children offered or wanted for adoption, or shall hold himself or herself out through such advertisement as having the ability to place, locate, dispose, or receive a child or children for adoption unless such person or entity is:

(a) A duly authorized agent, contractee, or employee of the department or a children's agency or institution licensed by the department to care for and place children;

(b) A person who has a completed preplacement report as set forth in RCW 26.33.190 (1) and (2) or chapter 26.34 RCW with a favorable recommendation as to the fitness of the person to be an adoptive parent, or such person's duly authorized uncompensated agent, or such person's attorney who is licensed to practice in the state. Verification of compliance with the requirements of this section shall consist of a written declaration by the person or entity who prepared the preplacement report.

Nothing in this section prohibits an attorney licensed to practice in Washington state from advertising his or her availability to practice or provide services related to the adoption of children.

(3) A violation of subsection (2) of this section is a matter affecting the public interest for the purpose of applying chapter 19.86 RCW. A violation of subsection (2) of this section is not reasonable in relation to the development and preservation of business. A violation of subsection (2) of this section constitutes an unfair or deceptive act or practice in trade or commerce for the purpose of applying chapter 19.86 RCW. [1991 c 136 § 6; 1989 c 255 § 1.]

26.33.410 Advertisements—Exemption. Nothing in RCW 26.33.400 applies to any radio or television station or any publisher, printer, or distributor of any newspaper, magazine, billboard, or other advertising medium which accepts advertising in good faith without knowledge of its violation of any provision of RCW 26.33.400. [1989 c 255 § 2.]

26.33.900 Effective date—Application—1984 c 155. This act shall take effect January 1, 1985. Any proceeding initiated before January 1, 1985, shall be governed by the law in effect on the date the proceeding was initiated. [1984 c 155 § 41.]

26.33.901 Severability—1984 c 155. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1984 c 155 § 42.]

Chapter 26.34

INTERSTATE COMPACT ON PLACEMENT OF CHILDREN

Sections

26.34.010	Compact enacted—Provisions.
26.34.020	Financial responsibility.
26.34.030	"Appropriate public authorities" defined.
26.34.040	"Appropriate authority of the receiving state" defined.
26.34.050	Authority of state officers and agencies to enter into agreements—Approval.
26.34.060	Jurisdiction of courts.
26.34.070	"Executive head" defined—Compact administrator.
26.34.080	Violations—Penalty.

26.34.010 Compact enacted—Provisions. The interstate compact on the placement of children is hereby enacted into law and entered into with all other jurisdictions legally joining therein in form substantially as follows:

ARTICLE I. Purpose and Policy

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(c) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis of which to evaluate a projected placement before it is made.

(d) Appropriate jurisdictional arrangements for the care of children will be promoted.

ARTICLE II. Definitions

As used in this compact:

(a) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship or similar control.

(b) "Sending agency" means a party state, officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state.

(c) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(d) "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective or epileptic or any institution primarily educational in character, and any hospital or other medical facility.

ARTICLE III. Conditions for Placement

(a) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(b) Prior to sending, bringing or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

(1) The name, date and place of birth of the child.
 (2) The identity and address or addresses of the parents or legal guardian.

(3) The name and address of the person, agency or institution to or with which the sending agency proposes to send, bring, or place the child.

(4) A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph (b) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(d) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

ARTICLE IV. *Penalty for Illegal Placement*

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.

ARTICLE V. *Retention of Jurisdiction*

(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(b) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such case by the latter as agent for the sending agency.

(c) Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph (a) hereof.

ARTICLE VI. *Institutional Care of Delinquent Children*

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

(1) Equivalent facilities for the child are not available in the sending agency's jurisdiction; and

(2) Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

ARTICLE VII. *Compact Administrator*

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE VIII. *Limitations*

This compact shall not apply to:

(a) The sending or bringing of a child into a receiving state by his parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or nonagency guardian in the receiving state.

(b) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

ARTICLE IX. *Enactment and Withdrawal*

This compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the Government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

ARTICLE X. *Construction and Severability*

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. [1971 ex.s. c 168 § 1.]

26.34.020 Financial responsibility. Financial responsibility for any child placed pursuant to the provisions of the Interstate Compact on the Placement of Children shall be determined in accordance with the provisions of Article V thereof in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of RCW 26.16.205 and 26.20.030 shall apply. [1971 ex.s. c 168 § 2.]

26.34.030 "Appropriate public authorities" defined.

The "appropriate public authorities" as used in Article III of the Interstate Compact on the Placement of Children shall, with reference to this state, mean the department of social and health services, and said agency shall receive and act with reference to notices required by said Article III. [1971 ex.s. c 168 § 3.]

26.34.040 "Appropriate authority of the receiving state" defined. As used in paragraph (a) of Article V of the Interstate Compact on the Placement of Children, the phrase "appropriate authority in the receiving state" with reference to this state shall mean the department of social and health services. [1971 ex.s. c 168 § 4.]

26.34.050 Authority of state officers and agencies to enter into agreements—Approval. The officers and agencies of this state and its subdivisions having authority to place children are hereby empowered to enter into agreements with appropriate officers or agencies of or in other party states pursuant to paragraph (b) of Article V of the Interstate Compact on the Placement of Children. Any such agreement which contains a financial commitment or imposes a financial obligation on this state or subdivision or agency thereof shall not be binding unless it has the approval in writing of the director of financial management in the case of the state and of the treasurer in the case of a subdivision of the state. [1979 c 151 § 10; 1971 ex.s. c 168 § 5.]

26.34.060 Jurisdiction of courts. Any court having jurisdiction to place delinquent children may place such a child in an institution of or in another state pursuant to Article VI of the Interstate Compact on the Placement of Children and shall retain jurisdiction as provided in Article V thereof. [1971 ex.s. c 168 § 6.]

26.34.070 "Executive head" defined—Compact administrator. As used in Article VII of the Interstate Compact on the Placement of Children, the term "executive head" means the governor. The governor is hereby authorized to appoint a compact administrator in accordance with the terms of said Article VII. [1971 ex.s. c 168 § 7.]

26.34.080 Violations—Penalty. Any person, firm, corporation, association or agency which places a child in the state of Washington without meeting the requirements set forth herein, or any person, firm, corporation, association or agency which receives a child in the state of Washington, where there has been no compliance with the requirements set forth herein, shall be guilty of a misdemeanor. Each day of violation shall constitute a separate offense. [1971 ex.s. c 168 § 8.]

Chapter 26.40**HANDICAPPED CHILDREN**

Sections

- 26.40.010 Declaration of purpose.
- 26.40.020 Removal, denial of parental responsibility—Commitment not an admission requirement to any school.
- 26.40.030 Petition by parent for order of commitment—Grounds.
- 26.40.040 Petition by parent for order of commitment—Contents—Who may be co-custodians—Effective date.
- 26.40.050 Petition by parent for order of commitment—Hearing—Written consent of co-custodians required.
- 26.40.060 Notice, copies, filing of order of commitment.
- 26.40.070 Petition by parent for rescission, change in co-custodians, determination of parental responsibility.
- 26.40.080 Health and welfare of committed child—State and co-custodian responsibilities.
- 26.40.090 Petition by co-custodians for rescission of commitment—Hearing.
- 26.40.100 Chapter does not affect commitments under other laws.
- 26.40.110 Lease of buses to transport handicapped children.

Aid to dependent children—Child welfare services—Services to crippled children: Chapter 74.12 RCW.

Child welfare agencies: Chapter 74.15 RCW.

Council for the prevention of child abuse and neglect: Chapter 43.121 RCW.

Juvenile courts and offenders: Title 13 RCW.

Mental illness: Chapter 71.05 RCW.

Special education: Chapter 28A.155 RCW.

State institutions: Title 72 RCW.

26.40.010 Declaration of purpose. The purpose of this chapter is to assure the right of every physically, mentally or sensory handicapped child to parental love and care as long as possible, to provide for adequate custody of a handicapped child who has lost parental care, and to make available to the handicapped child the services of the state through its various departments and agencies. [1977 ex.s. c 80 § 22; 1955 c 272 § 1.]

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

26.40.020 Removal, denial of parental responsibility—Commitment not an admission requirement to any school. So long as the parents of a handicapped child are able to assume parental responsibility for such child, their parental responsibility may not be removed or denied, and commitment by the state or any officer or official thereof shall never be a requirement for the admission of such child to any state school, or institution, or to the common schools. [1955 c 272 § 2.]

26.40.030 Petition by parent for order of commitment—Grounds. The parents or parent of any child who is temporarily or permanently delayed in normal educational processes and/or normal social adjustment by reason of physical, sensory or mental handicap, or by reason of social or emotional maladjustment, or by reason of other handicap, may petition the superior court for the county in which such child resides for an order for the commitment of such child to custody as provided in RCW 26.40.040, as now or hereafter amended. [1977 ex.s. c 80 § 23; 1955 c 272 § 3.]

Purpose—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

26.40.040 Petition by parent for order of commitment—Contents—Who may be co-custodians—Effective date. The petition for an order for the commitment of a child to custody shall request the court to issue an order for the commitment of such child to the co-custody of the state and a relative or relatives, a friend or friends, an attorney or attorneys, a church through its chief officers, a fraternal organization through its chief officers, or a service organization through its chief officers, who shall be named in the petition. The petition shall also request the court to issue such order making the commitment of such child to custody effective as of the date that both parents of such child are deceased or are determined by the court to be unable to continue parental responsibilities for such child as provided in RCW 26.40.070. [1955 c 272 § 4.]

26.40.050 Petition by parent for order of commitment—Hearing—Written consent of co-custodians required. Upon the filing of a petition for an order for the commitment of a child to custody, a hearing upon such petition shall be held in open court, and, if the court finds that the petition should be granted, the court shall issue an order for the commitment of the child to custody as petitioned and not otherwise. Written consent of the co-custodians other than the state must be filed with the court before such order for commitment may be issued. [1955 c 272 § 5.]

26.40.060 Notice, copies, filing of order of commitment. Upon the issuance of an order for the commitment of a child to custody, the court shall transmit copies thereof to the co-custodians named therein. For the state as co-custodian the copy of such order shall be filed with the department of social and health services whose duty it shall be to notify the state superintendent of public instruction, the state department of social and health services, and such other state departments or agencies as may have services for the child, of the filing of such order, which notice shall be given by the department of social and health services at the time commitment to custody becomes effective under the order. [1982 c 35 § 195; 1979 c 141 § 35; 1955 c 272 § 6.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

26.40.070 Petition by parent for rescission, change in co-custodians, determination of parental responsibility. The parents or parent upon whose petition an order for the commitment of a child to custody has been issued may, before such commitment becomes effective, petition the court for a rescission of the order or for a change in the co-custodians other than the state, or to determine that they are unable to continue parental responsibilities for the child, and the court shall proceed on such petition as on the original petition. [1955 c 272 § 7.]

26.40.080 Health and welfare of committed child—State and co-custodian responsibilities. It shall be the responsibility of the state and the appropriate departments and agencies thereof to discover methods and procedures by which the mental and/or physical health of the child in custody may be improved and, with the consent of the co-

custodians, to apply those methods and procedures. The co-custodians other than the state shall have no financial responsibility for the child committed to their co-custody except as they may in written agreement with the state accept such responsibility. At any time after the commitment of such child they may inquire into his well-being, and the state and any of its agencies may do nothing with respect to the child that would in any way affect his mental or physical health without the consent of the co-custodians. The legal status of the child may not be changed without the consent of the co-custodians. If it appears to the state as co-custodian of a child that the health and/or welfare of such child is impaired or jeopardized by the failure of the co-custodians other than the state to consent to the application of certain methods and procedures with respect to such child, the state through its proper department or agency may petition the court for an order to proceed with such methods and procedures. Upon the filing of such petition a hearing shall be held in open court, and if the court finds that such petition should be granted it shall issue the order. [1955 c 272 § 8.]

26.40.090 Petition by co-custodians for rescission of commitment—Hearing. When the co-custodians of any child committed to custody under provisions of this chapter agree that such child is no longer in need of custody they may petition the court for a rescission of the commitment to custody. Upon the filing of such petition a hearing shall be held in open court and if the court finds that such petition should be granted it shall rescind the order of commitment to custody. [1955 c 272 § 9.]

26.40.100 Chapter does not affect commitments under other laws. Nothing in this chapter shall be construed as affecting the authority of the courts to make commitments as otherwise provided by law. [1955 c 272 § 10.]

26.40.110 Lease of buses to transport handicapped children. See RCW 28A.160.040 through 28A.160.060.

Chapter 26.44

ABUSE OF CHILDREN AND ADULT DEPENDENT OR DEVELOPMENTALLY DISABLED PERSONS—PROTECTION—PROCEDURE

Sections

26.44.010	Declaration of purpose.
26.44.020	Definitions.
26.44.030	Reports—Duty and authority to make—Duty of receiving agency—Duty to notify—Case planning and consultation—Penalty for unauthorized exchange of information—Filing dependency petitions—Interviews of children—Records—Risk assessment tools and report to legislature on use.
26.44.032	Legal defense of public employee.
26.44.035	Response to complaint by more than one agency—Procedure—Written records.
26.44.040	Reports—Oral, written—Contents.
26.44.050	Abuse or neglect of child or adult dependent or developmentally disabled person—Duty of law enforcement agency or department of social and health services—Taking child into custody without court order, when.

- 26.44.053 Guardian ad litem, appointment—Examination of person having legal custody—Hearing—Procedure.
- 26.44.056 Protective detention or custody of abused child—Reasonable cause—Notice—Time limits—Monitoring plan—Liability.
- 26.44.060 Immunity from civil or criminal liability—Confidential communications not violated—Actions against state not affected—False report, penalty.
- 26.44.063 Temporary restraining order or preliminary injunction—Enforcement.
- 26.44.067 Temporary restraining order or preliminary injunction—Contents—Notice—Noncompliance—Defense—Penalty.
- 26.44.075 Inclusion of number of child abuse reports and cases in prosecuting attorney's annual report.
- 26.44.080 Violation—Penalty.
- 26.44.100 Information about rights—Legislative purpose.
- 26.44.105 Information about rights—Oral and written information—Copies of dependency petition and any court order.
- 26.44.110 Information about rights—Custody without court order—Written statement required—Contents.
- 26.44.115 Child taken into custody under court order—Information to parents.
- 26.44.120 Information about rights—Notice to noncustodial parent.
- 26.44.130 Arrest without warrant.
- 26.44.140 Treatment for abusive person removed from home.
- 26.44.900 Severability—1975 1st ex.s. c 217.

Child abuse, investigation: RCW 74.13.031.

Child abuse and neglect training for participants in early childhood education programs: RCW 43.63A.066.

Council for the prevention of child abuse and neglect: Chapter 43.121 RCW.

Day care—Information to parents and providers: RCW 74.15.200.

Domestic violence prevention: Chapter 26.50 RCW.

Missing children clearinghouse and hotline: Chapter 13.60 RCW.

Persons over sixty, abuse: Chapter 74.34 RCW.

Primary prevention program for child abuse and neglect: RCW 28A.300.160.

Record checks: RCW 43.43.830 through 43.43.840 and 43.20A.710.

School districts to develop policies and participate in programs: RCW 28A.230.080.

Witness of offense against child, duty: RCW 9.69.100.

26.44.010 Declaration of purpose. The Washington state legislature finds and declares: The bond between a child and his or her parent, custodian, or guardian is of paramount importance, and any intervention into the life of a child is also an intervention into the life of the parent, custodian, or guardian; however, instances of nonaccidental injury, neglect, death, sexual abuse and cruelty to children by their parents, custodians or guardians have occurred, and in the instance where a child is deprived of his or her right to conditions of minimal nurture, health, and safety, the state is justified in emergency intervention based upon verified information; and therefore the Washington state legislature hereby provides for the reporting of such cases to the appropriate public authorities. It is the intent of the legislature that, as a result of such reports, protective services shall be made available in an effort to prevent further abuses, and to safeguard the general welfare of such children: PROVIDED, That such reports shall be maintained and disseminated with strictest regard for the privacy of the subjects of such reports and so as to safeguard against arbitrary, malicious or erroneous information or actions: PROVIDED FURTHER, That this chapter shall not be construed to authorize interference with child-raising practices, including reasonable

parental discipline, which are not proved to be injurious to the child's health, welfare and safety.

Adult dependent or developmentally disabled persons not able to provide for their own protection through the criminal justice system shall also be afforded the protection offered children through the reporting and investigation requirements mandated in this chapter. [1987 c 206 § 1; 1984 c 97 § 1; 1977 ex.s. c 80 § 24; 1975 1st ex.s. c 217 § 1; 1969 ex.s. c 35 § 1; 1965 c 13 § 1.]

Severability—1984 c 97: See RCW 74.34.900.

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

26.44.020 Definitions. For the purpose of and as used in this chapter:

(1) "Court" means the superior court of the state of Washington, juvenile department.

(2) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.

(3) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice *podiatry, optometry, chiropractic, nursing, dentistry, osteopathy and surgery, or medicine and surgery or to provide other health services. The term "practitioner" shall include a duly accredited Christian Science practitioner: PROVIDED, HOWEVER, That a person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner shall not be considered, for that reason alone, a neglected person for the purposes of this chapter.

(4) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment or care.

(5) "Department" means the state department of social and health services.

(6) "Child" or "children" means any person under the age of eighteen years of age.

(7) "Professional school personnel" shall include, but not be limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.

(8) "Social service counselor" shall mean anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support or education of children, or providing social services to adults or families, including mental health, drug and alcohol treatment, and domestic violence programs, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.

(9) "Psychologist" shall mean any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(10) "Pharmacist" shall mean any registered pharmacist under the provisions of chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(11) "Clergy" shall mean any regularly licensed or ordained minister, priest or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(12) "Child abuse or neglect" shall mean the injury, sexual abuse, sexual exploitation, or negligent treatment or maltreatment of a child by any person under circumstances which indicate that the child's health, welfare, and safety is harmed thereby. An abused child is a child who has been subjected to child abuse or neglect as defined herein: PROVIDED, That this subsection shall not be construed to authorize interference with child-raising practices, including reasonable parental discipline, which are not proved to be injurious to the child's health, welfare, and safety: AND PROVIDED FURTHER, That nothing in this section shall be used to prohibit the reasonable use of corporal punishment as a means of discipline. No parent or guardian shall be deemed abusive or neglectful solely by reason of the parent's or child's blindness, deafness, developmental disability, or other handicap.

(13) "Child protective services section" shall mean the child protective services section of the department.

(14) "Adult dependent persons not able to provide for their own protection through the criminal justice system" shall be defined as those persons over the age of eighteen years who have been found legally incompetent pursuant to chapter 11.88 RCW or found disabled to such a degree pursuant to said chapter, that such protection is indicated: PROVIDED, That no persons reporting injury, abuse, or neglect to an adult dependent person as defined herein shall suffer negative consequences if such a judicial determination of incompetency or disability has not taken place and the person reporting believes in good faith that the adult dependent person has been found legally incompetent pursuant to chapter 11.88 RCW.

(15) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child for commercial purposes as those acts are defined by state law by any person.

(16) "Negligent treatment or maltreatment" means an act or omission which evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to the child's health, welfare, and safety.

(17) "Developmentally disabled person" means a person who has a disability defined in **RCW 71.20.016.

(18) "Child protective services" means those services provided by the department designed to protect children from child abuse and neglect and safeguard the general welfare of such children and shall include investigations of child abuse and neglect reports, including reports regarding child care centers and family child care homes, and the development, management, and provision of or referral to services to ameliorate conditions which endanger the welfare of children, the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect, and services to children to ensure that each child has a permanent home. In determining whether protective services should be provided, the department shall not decline to provide such services solely because of the child's unwillingness or developmental inability to describe the nature and severity of the abuse or neglect.

(19) "Malice" or "maliciously" means an evil intent, wish, or design to vex, annoy, or injure another person.

Such malice may be inferred from an act done in wilful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a wilful disregard of social duty. [1988 c 142 § 1. Prior: 1987 c 524 § 9; 1987 c 206 § 2; 1984 c 97 § 2; 1982 c 129 § 6; 1981 c 164 § 1; 1977 ex.s. c 80 § 25; 1975 1st ex.s. c 217 § 2; 1969 ex.s. c 35 § 2; 1965 c 13 § 2.]

Reviser's note: *(1) The term "podiatry" was changed to "podiatric medicine and surgery" by 1990 c 147.

** (2) RCW 71.20.016 was repealed by 1988 c 176 § 1005; for later enactment see RCW 71A.10.020.

Severability—1984 c 97: See RCW 74.34.900.

Severability—1982 c 129: See note following RCW 9A.04.080.

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

26.44.030 Reports—Duty and authority to make—Duty of receiving agency—Duty to notify—Case planning and consultation—Penalty for unauthorized exchange of information—Filing dependency petitions—Interviews of children—Records—Risk assessment tools and report to legislature on use. (1) When any practitioner, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, licensed or certified child care providers or their employees, employee of the department, or juvenile probation officer has reasonable cause to believe that a child or adult dependent or developmentally disabled person, has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040. The report shall be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child or adult has suffered abuse or neglect. The report shall include the identity of the accused if known.

(2) The reporting requirement of subsection (1) of this section does not apply to the discovery of abuse or neglect that occurred during childhood if it is discovered after the child has become an adult. However, if there is reasonable cause to believe other children, dependent adults, or developmentally disabled persons are or may be at risk of abuse or neglect by the accused, the reporting requirement of subsection (1) of this section shall apply.

(3) Any other person who has reasonable cause to believe that a child or adult dependent or developmentally disabled person has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040.

(4) The department, upon receiving a report of an incident of abuse or neglect pursuant to this chapter, involving a child or adult dependent or developmentally disabled person who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to sexual abuse, shall report such incident to the proper law enforcement agency. In emergency cases, where the child, adult dependent, or developmentally disabled person's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report

is received by the department. If the department makes an oral report, a written report shall also be made to the proper law enforcement agency within five days thereafter.

(5) Any law enforcement agency receiving a report of an incident of abuse or neglect pursuant to this chapter, involving a child or adult dependent or developmentally disabled person who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them. In emergency cases, where the child, adult dependent, or developmentally disabled person's welfare is endangered, the law enforcement agency shall notify the department within twenty-four hours. In all other cases, the law enforcement agency shall notify the department within seventy-two hours after a report is received by the law enforcement agency.

(6) Any county prosecutor or city attorney receiving a report under subsection (5) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section, with consultants designated by the department, and with designated representatives of Washington Indian tribes if the client information exchanged is pertinent to cases currently receiving child protective services or department case services for the developmentally disabled. Upon request, the department shall conduct such planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child or developmentally disabled person. Information considered privileged by statute and not directly related to reports required by this section shall not be divulged without a valid written waiver of the privilege.

(8) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(9) Persons or agencies exchanging information under subsection (7) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

(10) Upon receiving reports of abuse or neglect, the department or law enforcement agency may interview children. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. Parental notification of the interview shall occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation.

(11) Upon receiving a report of incidents, conditions, or circumstances of child abuse and neglect, the department shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(12) The department shall maintain investigation records and conduct timely and periodic reviews of all cases constituting abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

(13) The department of social and health services shall, within funds appropriated for this purpose, use a risk assessment tool when investigating child abuse and neglect referrals. The tool shall be used, on a pilot basis, in three local office service areas. The department shall, within funds appropriated for this purpose, offer enhanced community-based services to persons who are determined not to require further state intervention.

The department shall report to the ways and means committees of the senate and house of representatives on the use of the tool by December 1, 1989. The report shall include recommendations on the continued use and possible expanded use of the tool.

(14) Upon receipt of such report the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting. [1991 c 111 § 1; 1989 c 22 § 1. Prior: 1988 c 142 § 2; 1988 c 39 § 1; prior: 1987 c 524 § 10; 1987 c 512 § 23; 1987 c 206 § 3; 1986 c 145 § 1; 1985 c 259 § 2; 1984 c 97 § 3; 1982 c 129 § 7; 1981 c 164 § 2; 1977 ex.s. c 80 § 26; 1975 1st ex.s. c 217 § 3; 1971 ex.s. c 167 § 1; 1969 ex.s. c 35 § 3; 1965 c 13 § 3.]

Severability—1987 c 512: See RCW 18.19.901.

Legislative findings—1985 c 259: "The Washington state legislature finds and declares:

The children of the state of Washington are the state's greatest resource and the greatest source of wealth to the state of Washington. Children of all ages must be protected from child abuse. Governmental authorities must give the prevention, treatment, and punishment of child abuse the highest priority, and all instances of child abuse must be reported to the proper authorities who should diligently and expeditiously take appropriate action, and child abusers must be held accountable to the people of the state for their actions.

The legislature recognizes the current heavy caseload of governmental authorities responsible for the prevention, treatment, and punishment of child abuse. The information obtained by child abuse reporting requirements, in addition to its use as a law enforcement tool, will be used to determine the need for additional funding to ensure that resources for

appropriate governmental response to child abuse are available." [1985 c 259 § 1.]

Severability—1984 c 97: See RCW 74.34.900.

Severability—1982 c 129: See note following RCW 9A.04.080.

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

26.44.032 Legal defense of public employee. In cases in which a public employee subject to RCW 26.44.030 acts in good faith and without gross negligence in his or her reporting duty, and if the employee's judgment as to what constitutes reasonable cause to believe that a child or adult dependent or developmentally disabled person has suffered abuse or neglect is being challenged, the public employer shall provide for the legal defense of the employee. [1988 c 87 § 1.]

26.44.035 Response to complaint by more than one agency—Procedure—Written records. If the department or a law enforcement agency responds to a complaint of child abuse or neglect and discovers that another agency has also responded to the complaint, the agency shall notify the other agency of their presence, and the agencies shall coordinate the investigation and keep each other apprised of progress.

The department, each law enforcement agency, each county prosecuting attorney, each city attorney, and each court shall make as soon as practicable a written record and shall maintain records of all incidents of suspected child abuse reported to that person or agency. Records kept under this section shall be identifiable by means of an agency code for child abuse. [1985 c 259 § 3.]

Legislative findings—1985 c 259: See note following RCW 26.44.030.

26.44.040 Reports—Oral, written—Contents. An immediate oral report shall be made by telephone or otherwise to the proper law enforcement agency or the department of social and health services and, upon request, shall be followed by a report in writing. Such reports shall contain the following information, if known:

- (1) The name, address, and age of the child or adult dependent or developmentally disabled person;
- (2) The name and address of the child's parents, stepparents, guardians, or other persons having custody of the child or the residence of the adult dependent or developmentally disabled person;
- (3) The nature and extent of the injury or injuries;
- (4) The nature and extent of the neglect;
- (5) The nature and extent of the sexual abuse;
- (6) Any evidence of previous injuries, including their nature and extent; and
- (7) Any other information which may be helpful in establishing the cause of the child's or adult dependent or developmentally disabled person's death, injury, or injuries and the identity of the perpetrator or perpetrators. [1987 c 206 § 4; 1984 c 97 § 4; 1977 ex.s. c 80 § 27; 1975 1st ex.s. c 217 § 4; 1971 ex.s. c 167 § 2; 1969 ex.s. c 35 § 4; 1965 c 13 § 4.]

Severability—1984 c 97: See RCW 74.34.900.

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

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26.44.050 Abuse or neglect of child or adult dependent or developmentally disabled person—Duty of law enforcement agency or department of social and health services—Taking child into custody without court order, when. Upon the receipt of a report concerning the possible occurrence of abuse or neglect, it shall be the duty of the law enforcement agency or the department of social and health services to investigate and provide the protective services section with a report in accordance with the provision of chapter 74.13 RCW, and where necessary to refer such report to the court.

A law enforcement officer may take, or cause to be taken, a child into custody without a court order if there is probable cause to believe that the child is abused or neglected and that the child would be injured or could not be taken into custody if it were necessary to first obtain a court order pursuant to RCW 13.34.050. The law enforcement agency or the department of social and health services investigating such a report is hereby authorized to photograph such a child or adult dependent or developmentally disabled person for the purpose of providing documentary evidence of the physical condition of the child, adult dependent or developmentally disabled person. [1987 c 450 § 7; 1987 c 206 § 5; 1984 c 97 § 5; 1981 c 164 § 3; 1977 ex.s. c 291 § 51; 1977 ex.s. c 80 § 28; 1975 1st ex.s. c 217 § 5; 1971 ex.s. c 302 § 15; 1969 ex.s. c 35 § 5; 1965 c 13 § 5.]

Reviser's note: This section was amended by 1987 c 206 § 5 and by 1987 c 450 § 7, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability—1984 c 97: See RCW 74.34.900.

Effective dates—Severability—1977 ex.s. c 291: See notes following RCW 13.04.005.

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

Severability—1971 ex.s. c 302: See note following RCW 9.41.010.

26.44.053 Guardian ad litem, appointment—Examination of person having legal custody—Hearing—Procedure. (1) In any judicial proceeding in which it is alleged that a child has been subjected to child abuse or neglect, the court shall appoint a guardian ad litem for the child: PROVIDED, That the requirement of a guardian ad litem shall be deemed satisfied if the child is represented by counsel in the proceedings.

(2) At any time prior to or during a hearing in such a case, the court may, on its own motion, or the motion of the guardian ad litem, or other parties, order the examination by a physician, psychologist or psychiatrist, of any parent or child or other person having custody of the child at the time of the alleged child abuse or neglect, if the court finds such an examination is necessary to the proper determination of the case. The hearing may be continued pending the completion of such examination. The physician, psychologist or psychiatrist conducting such an examination may be required to testify concerning the results of such examination and may be asked to give his or her opinion as to whether the protection of the child requires that he or she not be returned to the custody of his or her parents or other persons having custody of him or her at the time of the alleged child abuse or neglect. Persons so testifying shall be subject to cross-examination as are other witnesses. No information

given at any such examination of the parent or any other person having custody of the child may be used against such person in any subsequent criminal proceedings against such person or custodian concerning the abuse or neglect of the child.

(3) A parent or other person having legal custody of a child alleged to be a child subjected to abuse or neglect shall be a party to any proceeding that may be a practical matter impair or impede such person's interest in custody or control of his or her child. [1987 c 524 § 11; 1987 c 206 § 7; 1975 1st ex.s. c 217 § 8.]

Reviser's note: This section was amended by 1987 c 206 § 7 and by 1987 c 524 § 11, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

26.44.056 Protective detention or custody of abused child—Reasonable cause—Notice—Time limits—Monitoring plan—Liability. (1) An administrator of a hospital or similar institution or any physician, licensed pursuant to chapters 18.71 or 18.57 RCW, may detain a child without consent of a person legally responsible for the child whether or not medical treatment is required, if the circumstances or conditions of the child are such that the detaining individual has reasonable cause to believe that permitting the child to continue in his or her place of residence or in the care and custody of the parent, guardian, custodian or other person legally responsible for the child's care would present an imminent danger to that child's safety: **PROVIDED,** That such administrator or physician shall notify or cause to be notified the appropriate law enforcement agency or child protective services pursuant to RCW 26.44.040. Such notification shall be made as soon as possible and in no case longer than seventy-two hours. Such temporary protective custody by an administrator or doctor shall not be deemed an arrest. Child protective services may detain the child until the court assumes custody, but in no case longer than seventy-two hours, excluding Saturdays, Sundays, and holidays.

(2) Whenever an administrator or physician has reasonable cause to believe that a child would be in imminent danger if released to a parent, guardian, custodian, or other person or is in imminent danger if left in the custody of a parent, guardian, custodian, or other person, the administrator or physician may notify a law enforcement agency and the law enforcement agency shall take the child into custody or cause the child to be taken into custody. The law enforcement agency shall release the child to the custody of child protective services. Child protective services shall detain the child until the court assumes custody or upon a documented and substantiated record that in the professional judgment of the child protective services the child's safety will not be endangered if the child is returned. If the child is returned, the department shall establish a six-month plan to monitor and assure the continued safety of the child's life or health. The monitoring period may be extended for good cause.

(3) A child protective services employee, an administrator, doctor, or law enforcement officer shall not be held liable in any civil action for the decision for taking the child into custody, if done in good faith under this section. [1983 c 246 § 3; 1982 c 129 § 8; 1975 1st ex.s. c 217 § 9.]

Severability—1982 c 129: See note following RCW 9A.04.080.

26.44.060 Immunity from civil or criminal liability—Confidential communications not violated—Actions against state not affected—False report, penalty. (1)(a) Except as provided in (b) of this subsection, any person participating in good faith in the making of a report pursuant to this chapter or testifying as to alleged child abuse or neglect in a judicial proceeding shall in so doing be immune from any liability arising out of such reporting or testifying under any law of this state or its political subdivisions.

(b) A person convicted of a violation of subsection (4) of this section shall not be immune from liability under (a) of this subsection.

(2) An administrator of a hospital or similar institution or any physician licensed pursuant to chapters 18.71 or 18.57 RCW taking a child into custody pursuant to RCW 26.44.056 shall not be subject to criminal or civil liability for such taking into custody.

(3) Conduct conforming with the reporting requirements of this chapter shall not be deemed a violation of the confidential communication privilege of RCW 5.60.060 (3) and (4), 18.53.200 and 18.83.110. Nothing in this chapter shall be construed as to supersede or abridge remedies provided in chapter 4.92 RCW.

(4) A person who, intentionally and in bad faith or maliciously, knowingly makes a false report of abuse or neglect shall be guilty of a misdemeanor punishable in accordance with RCW 9A.20.021. [1988 c 142 § 3; 1982 c 129 § 9; 1975 1st ex.s. c 217 § 6; 1965 c 13 § 6.]

Severability—1982 c 129: See note following RCW 9A.04.080.

Nurse-patient privilege subject to RCW 26.44.060(3): RCW 5.62.030.

26.44.063 Temporary restraining order or preliminary injunction—Enforcement. (1) It is the intent of the legislature to minimize trauma to a child involved in an allegation of sexual or physical abuse. The legislature declares that removing the child from the home often has the effect of further traumatizing the child. It is, therefore, the legislature's intent that the alleged offender, rather than the child, shall be removed from the home and that this should be done at the earliest possible point of intervention in accordance with RCW 10.31.100, 13.34.130, this section, and RCW 26.44.130.

(2) In any judicial proceeding in which it is alleged that a child has been subjected to sexual or physical abuse, if the court finds reasonable grounds to believe that an incident of sexual or physical abuse has occurred, the court may, on its own motion, or the motion of the guardian ad litem or other parties, issue a temporary restraining order or preliminary injunction restraining or enjoining the person accused of committing the abuse from:

(a) Molesting or disturbing the peace of the alleged victim;

(b) Entering the family home of the alleged victim except as specifically authorized by the court; or

(c) Having any contact with the alleged victim, except as specifically authorized by the court.

(3) In issuing a temporary restraining order or preliminary injunction, the court may impose any additional restrictions that the court in its discretion determines are necessary to protect the child from further abuse or emotional trauma pending final resolution of the abuse allegations.

(4) The court shall issue a temporary restraining order prohibiting a person from entering the family home if the court finds that the order would eliminate the need for an out-of-home placement to protect the child's right to nurturance, health, and safety and is sufficient to protect the child from further sexual or physical abuse or coercion.

(5) The court may issue a temporary restraining order without requiring notice to the party to be restrained or other parties only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for responding has elapsed.

(6) A temporary restraining order or preliminary injunction:

(a) Does not prejudice the rights of a party or any child which are to be adjudicated at subsequent hearings in the proceeding; and

(b) May be revoked or modified.

(7) The person having physical custody of the child shall have an affirmative duty to assist in the enforcement of the restraining order including but not limited to a duty to notify the court as soon as practicable of any violation of the order, a duty to request the assistance of law enforcement officers to enforce the order, and a duty to notify the department of social and health services of any violation of the order as soon as practicable if the department is a party to the action. Failure by the custodial party to discharge these affirmative duties shall be subject to contempt proceedings.

(8) Willful violation of a court order entered under this section is a misdemeanor. A written order shall contain the court's directive and shall bear the legend: "Violation of this order is a criminal offense under chapter 26.44 RCW and will subject a violator to arrest." [1988 c 190 § 3; 1985 c 35 § 1.]

Ex parte temporary order for protection: RCW 26.50.070.

Orders for protection in cases of domestic violence: RCW 26.50.030.

Orders prohibiting contact: RCW 10.99.040.

Temporary restraining order: RCW 26.09.060.

26.44.067 Temporary restraining order or preliminary injunction—Contents—Notice—Noncompliance—Defense—Penalty. (1) Any person having had actual notice of the existence of a restraining order issued by a court of competent jurisdiction pursuant to RCW 26.44.063 who refuses to comply with the provisions of such order when requested by any peace officer of the state shall be guilty of a misdemeanor.

(2) The notice requirements of subsection (1) of this section may be satisfied by the peace officer giving oral or written evidence to the person subject to the order by reading from or handing to that person a copy certified by a notary public or the clerk of the court to be an accurate copy of the original court order which is on file. The copy may be supplied by the court or any party.

(3) The remedies provided in this section shall not apply unless restraining orders subject to this section shall bear this legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.44 RCW AND IS ALSO SUBJECT TO CONTEMPT PROCEEDINGS.

(4) It is a defense to prosecution under subsection (1) of this section that the court order was issued contrary to law or court rule. No right of action shall accrue against any peace officer acting upon a properly certified copy of a court order lawful on its face if such officer employs otherwise lawful means to effect the arrest. [1989 c 373 § 23; 1985 c 35 § 2.]

Severability—1989 c 373: See RCW 7.21.900.

26.44.075 Inclusion of number of child abuse reports and cases in prosecuting attorney's annual report. Commencing in 1986, the prosecuting attorney shall include in the annual report a section stating the number of child abuse reports received by the office under this chapter and the number of cases where charges were filed. [1985 c 259 § 4.]

Legislative findings—1985 c 259: See note following RCW 26.44.030.

26.44.080 Violation—Penalty. Every person who is required to make, or to cause to be made, a report pursuant to RCW 26.44.030 and 26.44.040, and who knowingly fails to make, or fails to cause to be made, such report, shall be guilty of a gross misdemeanor. [1982 c 129 § 10; 1971 ex.s. c 167 § 3.]

Severability—1982 c 129: See note following RCW 9A.04.080.

26.44.100 Information about rights—Legislative purpose. The legislature finds parents and children often are not aware of their due process rights when agencies are investigating allegations of child abuse and neglect. The legislature reaffirms that all citizens, including parents, shall be afforded due process, that protection of children remains the priority of the legislature, and that this protection includes protecting the family unit from unnecessary disruption. To facilitate this goal, the legislature wishes to ensure that parents and children be advised in writing and orally, if feasible, of their basic rights and other specific information as set forth in *this act, provided that nothing contained in *this act shall cause any delay in protective custody action. [1985 c 183 § 1.]

**Reviser's note: "This act" [1985 c 183] consists of the enactment of RCW 26.44.100, 26.44.105, 26.44.110, 26.44.115, and 26.44.120.*

26.44.105 Information about rights—Oral and written information—Copies of dependency petition and any court order. Whenever a dependency petition is filed by the department of social and health services, it shall advise the parents, and any child over the age of twelve who is subject to the dependency action, of their respective rights under RCW 13.34.090. The parents and the child shall be provided a copy of the dependency petition and a copy of any court orders which have been issued. This advice of rights under RCW 13.34.090 shall be in writing. The department caseworker shall also make reasonable efforts to advise the parent and child of these same rights orally. [1985 c 183 § 2.]

26.44.110 Information about rights—Custody without court order—Written statement required—Contents. If a child has been taken into custody by law

enforcement pursuant to RCW 26.44.050, the law enforcement agency shall leave a written statement with a parent or in the residence of the parent if no parent is present. The statement shall give the reasons for the removal of the child from the home and the telephone number of the child protective services office in the parent's jurisdiction. [1985 c 183 § 3.]

26.44.115 Child taken into custody under court order—Information to parents. If a child is taken into custody by child protective services pursuant to a court order issued under RCW 13.34.050, the child protective services worker shall take reasonable steps to advise the parents immediately, regardless of the time of day, that the child has been taken into custody, the reasons why the child was taken into custody, and general information about the child's placement. The department shall comply with RCW 13.34.060 when providing notice under this section. [1990 c 246 § 10; 1985 c 183 § 4.]

Severability—1990 c 246: See note following RCW 13.34.060.

26.44.120 Information about rights—Notice to noncustodial parent. Whenever the child protective services worker is required to notify parents and children of their basic rights and other specific information as set forth in RCW 26.44.105 through 26.44.115, the child protective services worker shall also make a reasonable effort to notify the noncustodial parent of the same information in a timely manner. [1985 c 183 § 5.]

26.44.130 Arrest without warrant. When a peace officer responds to a call alleging that a child has been subjected to sexual or physical abuse and has probable cause to believe that a crime has been committed or responds to a call alleging that a temporary restraining order or preliminary injunction has been violated, the peace officer has the authority to arrest the person without a warrant pursuant to RCW 10.31.100. [1988 c 190 § 4.]

26.44.140 Treatment for abusive person removed from home. The court shall require that an individual who, while acting in a parental role, has physically or sexually abused a child and has been removed from the home pursuant to a court order issued in a proceeding under chapter 13.34 RCW, prior to being permitted to reside in the home where the child resides, complete the treatment and education requirements necessary to protect the child from future abuse. The court may require the individual to continue treatment as a condition for remaining in the home where the child resides.

The department of social and health services or supervising agency shall be responsible for advising the court as to appropriate treatment and education requirements, providing referrals to the individual, monitoring and assessing the individual's progress, informing the court of such progress, and providing recommendations to the court.

The person removed from the home shall pay for these services unless the person is otherwise eligible to receive financial assistance in paying for such services. Nothing in this section shall be construed to create in any person an

entitlement to services or financial assistance in paying for services. [1991 c 301 § 15; 1990 c 3 § 1301.]

Finding—1991 c 301: See note following RCW 10.99.020.

Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.

26.44.900 Severability—1975 1st ex.s. c 217. If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975 1st ex.s. c 217 § 10.]

Chapter 26.50

DOMESTIC VIOLENCE PREVENTION

Sections

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Abuse of children and adult dependent or developmentally disabled persons: Chapter 26.44 RCW.

Arrest without warrant: RCW 10.31.100(2).

Dissolution of marriage: Chapter 26.09 RCW.

Domestic violence, official response: Chapter 10.99 RCW.

Nonparental actions for child custody: Chapter 26.10 RCW.

Shelters for victims of domestic violence: Chapter 70.123 RCW.

26.50.010 Definitions. As used in this chapter, the following terms shall have the meanings given them:

(1) "Domestic violence" means: (a) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members; or (b) sexual assault of one family or household member by another.

(2) "Family or household members" means spouses, former spouses, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past, persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, persons sixteen years of age or older with whom a respondent sixteen years of age or older has or has had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

(3) "Dating relationship" means a social relationship of a romantic nature. Factors that the court may consider in making this determination include: (a) The length of time the relationship has existed; (b) the nature of the relationship; and (c) the frequency of interaction between the parties.

(4) "Court" includes the superior, district, and municipal courts of the state of Washington.

(5) "Judicial day" does not include Saturdays, Sundays, or legal holidays.

(6) "Electronic monitoring" means a program in which a person's presence at a particular location is monitored from a remote location by use of electronic equipment. [1992 c 111 § 7; 1992 c 86 § 3; 1991 c 301 § 8; 1984 c 263 § 2.]

Reviser's note: This section was amended by 1992 c 86 § 3 and by 1992 c 111 § 7, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings—1992 c 111: See note following RCW 26.50.030.

Finding—1991 c 301: See note following RCW 10.99.020.

Domestic violence offenses defined: RCW 10.99.020.

26.50.020 Commencement of action—Jurisdiction—Venue. (1) Any person may seek relief under this chapter by filing a petition with a court alleging that the person has been the victim of domestic violence committed by the respondent. The person may petition for relief on behalf of himself or herself and on behalf of minor family or household members.

(2) A person under eighteen years of age who is sixteen years of age or older may seek relief under this chapter and is not required to seek relief by a guardian or next friend.

(3) No guardian or guardian ad litem need be appointed on behalf of a respondent to an action under this chapter who is under eighteen years of age if such respondent is sixteen years of age or older.

(4) The court may, if it deems necessary, appoint a guardian ad litem for a petitioner or respondent who is a party to an action under this chapter.

(5) The courts defined in *RCW 26.50.010(3) have jurisdiction over proceedings under this chapter. The jurisdiction of district and municipal courts under this chapter shall be limited to enforcement of RCW

26.50.110(1), or the equivalent municipal ordinance, and the issuance and enforcement of temporary orders for protection provided for in RCW 26.50.070 if: (a) A superior court has exercised or is exercising jurisdiction over a proceeding under this title or chapter 13.34 RCW involving the parties; (b) the petition for relief under this chapter presents issues of residential schedule of and contact with children of the parties; or (c) the petition for relief under this chapter requests the court to exclude a party from the dwelling which the parties share. When the jurisdiction of a district or municipal court is limited to the issuance and enforcement of a temporary order, the district or municipal court shall set the full hearing provided for in RCW 26.50.050 in superior court and transfer the case. If the notice and order are not served on the respondent in time for the full hearing, the issuing court shall have concurrent jurisdiction with the superior court to extend the order for protection.

(6) An action under this chapter shall be filed in the county or the municipality where the petitioner resides, unless the petitioner has left the residence or household to avoid abuse. In that case, the petitioner may bring an action in the county or municipality of the previous or the new household or residence.

(7) A person's right to petition for relief under this chapter is not affected by the person leaving the residence or household to avoid abuse. [1992 c 111 § 8; 1989 c 375 § 28; 1987 c 71 § 1; 1985 c 303 § 1; 1984 c 263 § 3.]

***Reviser's note:** RCW 26.50.010(3) was renumbered as RCW 26.50.010(4) by 1992 c 111 § 7.

Findings—1992 c 111: See note following RCW 26.50.030.

Severability—1989 c 375: See RCW 26.09.914.

Effective date—1985 c 303 §§ 1, 2: "Sections 1 and 2 of this act shall take effect September 1, 1985." [1985 c 303 § 15.]

26.50.030 Petition for an order for protection—Availability of forms and informational brochures—Filing fee—Bond not required. There shall exist an action known as a petition for an order for protection in cases of domestic violence.

(1) A petition for relief shall allege the existence of domestic violence, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought.

(2) A petition for relief may be made regardless of whether or not there is a pending lawsuit, complaint, petition, or other action between the parties except in cases where the court realigns petitioner and respondent in accordance with *RCW 26.50.060(3).

(3) Within ninety days of receipt of the master copy from the administrator for the courts, all court clerk's offices shall make available the standardized forms, instructions, and informational brochures required by **RCW 26.50.035 and shall fill in and keep current specific program names and telephone numbers for community resources. Any assistance or information provided by clerks under this section does not constitute the practice of law and clerks are not responsible for incorrect information contained in a petition.

(4) A filing fee of twenty dollars shall be charged for proceedings under this section. No filing fee may be charged for: (a) A petition filed in an existing action or under an existing cause number brought under this chapter in the jurisdiction where the relief is sought; or (b) the

transfer of a case from district or municipal court to superior court under ***RCW 26.50.020(2). Forms and instructional brochures shall be provided free of charge.

(5) A person is not required to post a bond to obtain relief in any proceeding under this section. [1992 c 111 § 2; 1985 c 303 § 2; 1984 c 263 § 4.]

Reviser's note: *(1) RCW 26.50.060(3) was renumbered as RCW 26.50.060(4).

***(2) RCW 26.50.035 refers to "instructional brochures." 1992 c 111 § 3, which changed the brochures to "informational," was vetoed.

****(3) RCW 26.50.020(2) was renumbered as RCW 26.50.020(5) by 1992 c 111 § 8.

Findings—1992 c 111: "The legislature finds that:

Domestic violence is a problem of immense proportions affecting individuals as well as communities. Domestic violence has long been recognized as being at the core of other major social problems: Child abuse, other crimes of violence against person or property, juvenile delinquency, and alcohol and drug abuse. Domestic violence costs millions of dollars each year in the state of Washington for health care, absence from work, services to children, and more. The crisis is growing.

While the existing protection order process can be a valuable tool to increase safety for victims and to hold batterers accountable, specific problems in its use have become evident. Victims have difficulty completing the paperwork required particularly if they have limited English proficiency; model forms have been modified to be inconsistent with statutory language; different forms create confusion for law enforcement agencies about the contents and enforceability of orders. Refinements are needed so that victims have the easy, quick, and effective access to the court system envisioned at the time the protection order process was first created.

When courts issue mutual protection orders without the filing of separate written petitions, notice to each respondent, and hearing on each petition, the original petitioner is deprived of due process. Mutual protection orders label both parties as violent and treat both as being equally at fault: Batterers conclude that the violence is excusable or provoked and victims who are not violent are confused and stigmatized. Enforcement may be ineffective and mutual orders may be used in other proceedings as evidence that the victim is equally at fault.

Valuable information about the reported incidents of domestic violence in the state of Washington is unobtainable without gathering data from all law enforcement agencies; without this information, it is difficult for policymakers, funders, and service providers to plan for the resources and services needed to address the issue.

Domestic violence must be addressed more widely and more effectively in our state: Greater knowledge by professionals who deal frequently with domestic violence is essential to enforce existing laws, to intervene in domestic violence situations that do not come to the attention of the law enforcement or judicial systems, and to reduce and prevent domestic violence by intervening before the violence becomes severe.

Adolescent dating violence is occurring at increasingly high rates: Preventing and confronting adolescent violence is important in preventing potential violence in future adult relationships." [1992 c 111 § 1.]

Effective date—1985 c 303 §§ 1, 2: See note following RCW 26.50.020.

Child abuse, temporary restraining order: RCW 26.44.063.

Orders prohibiting contact: RCW 10.99.040.

Temporary restraining order: RCW 26.09.060.

26.50.035 Development of forms and instructional brochures by the administrator for the courts—Distribution of master copy. The administrator for the courts shall develop and prepare, in consultation with interested persons, the forms and instructional brochures required under *RCW 26.50.030(3). The administrator for the courts shall distribute a master copy of the forms and instructional brochures to all court clerks. [1985 c 303 § 3; 1984 c 263 § 31.]

***Reviser's note:** RCW 26.50.030 was amended by 1992 c 111 § 2 changing subsection (3) to subsection (4).

26.50.040 Application for leave to proceed in forma pauperis. (1) Persons seeking relief under this chapter may file an application for leave to proceed in forma pauperis on forms supplied by the court. If the court determines that a petitioner lacks the funds to pay the costs of filing, the petitioner shall be granted leave to proceed in forma pauperis and no filing fee or any other court related fees shall be charged by the court to the petitioner for relief sought under this chapter. If the petitioner is granted leave to proceed in forma pauperis, then no fees for service may be charged to the petitioner.

(2) For the purpose of determining whether a petitioner has the funds available to pay the costs of filing an action under this chapter, the income of the household or family member named as the respondent is not considered. [1985 c 303 § 4; 1984 c 263 § 5.]

26.50.050 Hearing—Service—Time. Upon receipt of the petition, the court shall order a hearing which shall be held not later than fourteen days from the date of the order. Except as provided in RCW 26.50.085, personal service shall be made upon the respondent not less than five court days prior to the hearing. If timely personal service cannot be made, the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication as provided in RCW 26.50.085. If the court permits service by publication, the court shall set the hearing date not later than twenty-four days from the date of the order. The court may issue an ex parte order for protection pending the hearing as provided in RCW 26.50.070 and 26.50.085. [1992 c 143 § 1; 1984 c 263 § 6.]

26.50.060 Relief—Duration—Realignment of designation of parties—Award of costs, service fees, and attorneys' fees. (1) Upon notice and after hearing, the court may provide relief as follows:

(a) Restrain the respondent from committing acts of domestic violence;

(b) Exclude the respondent from the dwelling which the parties share or from the residence of the petitioner;

(c) On the same basis as is provided in chapter 26.09 RCW, the court shall make residential provision with regard to minor children of the parties. However, parenting plans as specified in chapter 26.09 RCW shall not be required under this chapter;

(d) Order the respondent to participate in batterers' treatment;

(e) Order other relief as it deems necessary for the protection of the petitioner and other family or household members sought to be protected, including orders or directives to a peace officer, as allowed under this chapter;

(f) Require the respondent to pay the filing fee and court costs, including service fees, and to reimburse the petitioner for costs incurred in bringing the action, including a reasonable attorney's fee. If the petitioner has been granted leave to proceed in forma pauperis, the court may require the respondent to pay the filing fee and costs, including services fees, to the county or municipality incurring the expense;

(g) Restrain the respondent from having any contact with the victim of domestic violence or the victim's children or members of the victim's household; and

(h) Require the respondent to submit to electronic monitoring. The order shall specify who shall provide the electronic monitoring services and the terms under which the monitoring must be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the respondent to pay for electronic monitoring.

(2) Any relief granted by the order for protection, other than a judgment for costs, shall be for a fixed period not to exceed one year if the restraining order restrains the respondent from contacting the respondent's minor children. If the petitioner has petitioned for relief on his or her own behalf or on behalf of the petitioner's family or household members or minor children that are not also the respondent's minor children, and the court finds that the respondent is likely to resume acts of domestic violence against the petitioner or the petitioner's family or household members or minor children when the order expires, the court may either (a) grant relief for a fixed period not to exceed one year; (b) grant relief for a fixed period in excess of one year; or (c) enter a permanent order of protection.

If the petitioner has petitioned for relief on behalf of the respondent's minor children, the court shall advise the petitioner that if the petitioner wants to continue protection for a period beyond one year the petitioner may either petition for renewal pursuant to the provisions of this chapter or may seek relief pursuant to the provisions of chapter 26.09 RCW.

(3) If the court grants an order for a fixed time period, the petitioner may apply for renewal of the order by filing a petition for renewal at any time within the three months before the order expires. The petition for renewal shall state the reasons why the petitioner seeks to renew the protection order. Upon receipt of the petition for renewal the court shall order a hearing which shall be not later than fourteen days from the date of the order. Except as provided in RCW 26.50.085, personal service shall be made on the respondent not less than five days before the hearing. If timely service cannot be made the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication as provided in RCW 26.50.085. If the court permits service by publication, the court shall set the new hearing date not later than twenty-four days from the date of the order. If the order expires because timely service cannot be made the court shall grant an ex parte order of protection as provided in RCW 26.50.070. The court shall grant the petition for renewal unless the respondent proves by a preponderance of the evidence that the respondent will not resume acts of domestic violence against the petitioner or the petitioner's children or family or household members when the order expires. The court may renew the protection order for another fixed time period or may enter a permanent order as provided in this section. The court may award court costs, service fees, and reasonable attorneys' fees as provided in subsection (1)(f) of this section.

(4) In providing relief under this chapter, the court may realign the designation of the parties as "petitioner" and "respondent" where the court finds that the original petitioner

is the abuser and the original respondent is the victim of domestic violence and may issue an ex parte temporary order for protection in accordance with RCW 26.50.070 on behalf of the victim until the victim is able to prepare a petition for an order for protection in accordance with RCW 26.50.030.

(5) Except as provided in subsection (4) of this section, no order for protection shall grant relief to any party except upon notice to the respondent and hearing pursuant to a petition or counter-petition filed and served by the party seeking relief in accordance with RCW 26.50.050.

(6) The court order shall specify the date the order expires if any. The court order shall also state whether the court issued the protection order following personal service or service by publication and whether the court has approved service by publication of an order issued under this section. [1992 c 143 § 2; 1992 c 111 § 4; 1992 c 86 § 4; 1989 c 411 § 1; 1987 c 460 § 55; 1985 c 303 § 5; 1984 c 263 § 7.]

Reviser's note: This section was amended by 1992 c 86 § 4, 1992 c 111 § 4, and by 1992 c 143 § 2, each without reference to the other. All amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings—1992 c 111: See note following RCW 26.50.030.

Short title—Section captions—Effective date—Severability—1987 c 460: See RCW 26.09.910 through 26.09.913.

26.50.070 Ex parte temporary order for protection.

(1) Where an application under this section alleges that irreparable injury could result from domestic violence if an order is not issued immediately without prior notice to the respondent, the court may grant an ex parte temporary order for protection, pending a full hearing, and grant relief as the court deems proper, including an order:

(a) Restraining any party from committing acts of domestic violence;

(b) Excluding any party from the dwelling shared or from the residence of the other until further order of the court;

(c) Restraining any party from interfering with the other's custody of the minor children or from removing the children from the jurisdiction of the court; and

(d) Restraining any party from having any contact with the victim of domestic violence or the victim's children or members of the victim's household.

(2) Irreparable injury under this section includes but is not limited to situations in which the respondent has recently threatened petitioner with bodily injury or has engaged in acts of domestic violence against the petitioner.

(3) The court shall hold an ex parte hearing in person or by telephone on the day the petition is filed or on the following judicial day.

(4) An ex parte temporary order for protection shall be effective for a fixed period not to exceed fourteen days or twenty-four days if the court has permitted service by publication under RCW 26.50.085. The ex parte order may be reissued. A full hearing, as provided in this chapter, shall be set for not later than fourteen days from the issuance of the temporary order or not later than twenty-four days if service by publication is permitted. Except as provided in RCW 26.50.050 and 26.50.085, the respondent shall be personally served with a copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing. [1992 c 143 § 3; 1989 c 411 § 2; 1984 c 263 § 8.]

Child abuse, temporary restraining order: RCW 26.44.063.
Orders prohibiting contact: RCW 10.99.040.
Temporary restraining order: RCW 26.09.060.

26.50.080 Issuance of order—Assistance of peace officer—Designation of appropriate law enforcement agency. When an order is issued under this chapter upon request of the petitioner, the court may order a peace officer to accompany the petitioner and assist in placing the petitioner in possession of the dwelling or residence, or otherwise assist in the execution of the order of protection.

26.50.085 Hearing reset after ex parte order—Service by publication—Circumstances. (1) If the respondent was not personally served with the petition, notice of hearing, and ex parte order before the hearing, the court shall reset the hearing for twenty-four days from the date of entry of the order and may order service by publication instead of personal service under the following circumstances:

(a) The sheriff or municipal officer files an affidavit stating that the officer was unable to complete personal service upon the respondent. The affidavit must describe the number and types of attempts the officer made to complete service;

(b) The petitioner files an affidavit stating that the petitioner believes that the respondent is hiding from the server to avoid service. The petitioner's affidavit must state the reasons for the belief that the petitioner [respondent] is avoiding service;

(c) The server has deposited a copy of the summons, in substantially the form prescribed in subsection (3) of this section, notice of hearing, and the ex parte order of protection in the post office, directed to the respondent at the respondent's last known address, unless the server states that the server does not know the respondent's address; and

(d) The court finds reasonable grounds exist to believe that the respondent is concealing himself or herself to avoid service, and that further attempts to personally serve the respondent would be futile or unduly burdensome.

(2) The court shall reissue the temporary order of protection not to exceed another twenty-four days from the date of reissuing the ex parte protection order and order to provide service by publication.

(3) The publication shall be made in a newspaper of general circulation in the county where the petition was brought and in the county of the last known address of the respondent once a week for three consecutive weeks. The newspaper selected must be one of the three most widely circulated papers in the county. The publication of summons shall not be made until the court orders service by publication under this section. Service of the summons shall be considered complete when the publication has been made for three consecutive weeks. The summons must be signed by the petitioner. The summons shall contain the date of the first publication, and shall require the respondent upon whom service by publication is desired, to appear and answer the petition on the date set for the hearing. The summons shall

also contain a brief statement of the reason for the petition and a summary of the provisions under the ex parte order. The summons shall be essentially in the following form:

In the court of the state of Washington for the county of
. , Petitioner
vs. No.
. , Respondent

The state of Washington to (respondent):

You are hereby summoned to appear on the . . . day of, 19. . . . , at a.m./p.m., and respond to the petition. If you fail to respond, an order of protection will be issued against you pursuant to the provisions of the domestic violence protection act, chapter 26.50 RCW, for a minimum of one year from the date you are required to appear. A temporary order of protection has been issued against you, restraining you from the following: (Insert a brief statement of the provisions of the ex parte order). A copy of the petition, notice of hearing, and ex parte order has been filed with the clerk of this court.

.
Petitioner

[1992 c 143 § 4.]

26.50.090 Order—Service—Fees. (1) An order issued under this chapter shall be personally served upon the respondent, except as provided in subsections (6) and (8) of this section.

(2) The sheriff of the county or the peace officers of the municipality in which the respondent resides shall serve the respondent personally unless the petitioner elects to have the respondent served by a private party.

(3) If service by a sheriff or municipal peace officer is to be used, the clerk of the court shall have a copy of any order issued under this chapter forwarded on or before the next judicial day to the appropriate law enforcement agency specified in the order for service upon the respondent. Service of an order issued under this chapter shall take precedence over the service of other documents unless they are of a similar emergency nature.

(4) If the sheriff or municipal peace officer cannot complete service upon the respondent within ten days, the sheriff or municipal peace officer shall notify the petitioner. The petitioner shall provide information sufficient to permit notification.

(5) Returns of service under this chapter shall be made in accordance with the applicable court rules.

(6) If an order entered by the court recites that the respondent appeared in person before the court, the necessity for further service is waived and proof of service of that order is not necessary.

(7) Except in cases where the petitioner is granted leave to proceed in forma pauperis, municipal police departments serving documents as required under this chapter may collect the same fees for service and mileage authorized by RCW 36.18.040 to be collected by sheriffs.

(8) If the court previously entered an order allowing service by publication of the notice of hearing and temporary order of protection pursuant to RCW 26.50.085, the court

may permit service by publication of the order of protection issued under RCW 26.50.060. Service by publication must comply with the requirements of RCW 26.50.085. The court order must state whether the court permitted service by publication. [1992 c 143 § 6; 1985 c 303 § 6; 1984 c 263 § 10.]

26.50.095 Order following service by publication.

Following completion of service by publication as provided in RCW 26.50.085, if the respondent fails to appear at the hearing, the court may issue an order of protection as provided in RCW 26.50.060. That order must be served pursuant to RCW 26.50.090, and forwarded to the appropriate law enforcement agency pursuant to RCW 26.50.100. [1992 c 143 § 5.]

26.50.100 Order—Transmittal to law enforcement agency—Record in law enforcement information system—Enforceability. (1) A copy of an order for protection granted under this chapter shall be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order.

Upon receipt of the order, the law enforcement agency shall forthwith enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The law enforcement agency shall expunge expired orders from the computer system. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state.

(2) The information entered into the computer-based system shall include notice to law enforcement whether the order was personally served or served by publication. [1992 c 143 § 7; 1984 c 263 § 11.]

26.50.110 Violation of order—Penalties. (1) Whenever an order for protection is granted under this chapter and the respondent or person to be restrained knows of the order, a violation of the restraint provisions or of a provision excluding the person from a residence is a misdemeanor. Upon conviction, and in addition to any other penalties provided by law, the court may require that the respondent submit to electronic monitoring. The court shall specify who shall provide the electronic monitoring services, and the terms under which the monitoring shall be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the convicted person to pay for electronic monitoring.

(2) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order issued under this chapter that restrains the person or excludes the person from a residence, if the person restrained knows of the order.

(3) A violation of an order for protection shall also constitute contempt of court, and is subject to the penalties prescribed by law.

(4) Any assault that is a violation of an order issued under this chapter and that does not amount to assault in the first or second degree under RCW 9A.36.011 or 9A.36.021

is a class C felony, and any conduct in violation of a protective order issued under this chapter that is reckless and creates a substantial risk of death or serious physical injury to another person is a class C felony.

(5) Upon the filing of an affidavit by the petitioner or any peace officer alleging that the respondent has violated an order for protection granted under this chapter, the court may issue an order to the respondent, requiring the respondent to appear and show cause within fourteen days why the respondent should not be found in contempt of court and punished accordingly. The hearing may be held in the court of any county or municipality in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation. [1992 c 86 § 5; 1991 c 301 § 6; 1984 c 263 § 12.]

Finding—1991 c 301: See note following RCW 10.99.020.

26.50.115 Enforcement of ex parte order—Knowledge of order prerequisite to penalties—Reasonable efforts to serve copy of order. (1) When the court issues an ex parte order pursuant to RCW 26.50.070 or an order of protection ordered issued pursuant to RCW 26.50.060, the court shall advise the petitioner that the respondent may not be subjected to the penalties set forth in RCW 26.50.110 for a violation of the order unless the respondent knows of the order.

(2) When a peace officer investigates a report of an alleged violation of an order for protection issued under this chapter the officer shall attempt to determine whether the respondent knew of the existence of the protection order. If the officer determines that the respondent did not or probably did not know about the protection order, the officer shall make reasonable efforts to obtain a copy of the protection order and serve it on the respondent during the investigation. [1992 c 143 § 8.]

26.50.120 Violation of order—Prosecuting attorney or attorney for municipality may be requested to assist—Costs and attorney's fee. When a party alleging a violation of an order for protection issued under this chapter states that the party is unable to afford private counsel and asks the prosecuting attorney for the county or the attorney for the municipality in which the order was issued for assistance, the attorney shall initiate and prosecute a contempt proceeding if there is probable cause to believe that the violation occurred. In this action, the court may require the violator of the order to pay the costs incurred in bringing the action, including a reasonable attorney's fee. [1984 c 263 § 13.]

26.50.125 Service by publication—Costs. The court may permit service by publication under this chapter only if the petitioner pays the cost of publication unless the county legislative authority allocates funds for service of process by publication for petitioners who are granted leave to proceed in forma pauperis. [1992 c 143 § 9.]

26.50.130 Order—Modification—Transmittal. Upon application with notice to all parties and after a hearing, the court may modify the terms of an existing order for protection. In any situation where an order is terminated or modified before its expiration date, the clerk of the court

shall forward on or before the next judicial day a true copy of the modified order or the termination order to the appropriate law enforcement agency specified in the modified or termination order. Upon receipt of the order, the law enforcement agency shall promptly enter it in the law enforcement information system. [1984 c 263 § 14.]

26.50.140 Peace officers—Immunity. No peace officer may be held criminally or civilly liable for making an arrest under RCW 26.50.110 if the police officer acts in good faith and without malice. [1984 c 263 § 17.]

26.50.150 Domestic violence perpetrator programs. The department of social and health services shall adopt rules for standards of approval of domestic violence perpetrator programs that accept perpetrators of domestic violence into treatment to satisfy court orders or that represent the programs as ones that treat domestic violence perpetrators. The treatment must meet the following minimum qualifications:

(1) All treatment must be based upon a full, complete clinical intake including: Current and past violence history; a lethality risk assessment; a complete diagnostic evaluation; a substance abuse assessment; criminal history; assessment of cultural issues, learning disabilities, literacy, and special language needs; and a treatment plan that adequately and appropriately addresses the treatment needs of the individual.

(2) To facilitate communication necessary for periodic safety checks and case monitoring, the program must require the perpetrator to sign the following releases:

(a) A release for the program to inform the victim and victim's community and legal advocates that the perpetrator is in treatment with the program, and to provide information, for safety purposes, to the victim and victim's community and legal advocates;

(b) A release to prior and current treatment agencies to provide information on the perpetrator to the program; and

(c) A release for the program to provide information on the perpetrator to relevant legal entities including: Lawyers, courts, parole, probation, child protective services, and child welfare services.

(3) Treatment must be for a minimum treatment period defined by the secretary of the department by rule. The weekly treatment sessions must be in a group unless there is a documented, clinical reason for another modality. Any other therapies, such as individual, marital, or family therapy, substance abuse evaluations or therapy, medication reviews, or psychiatric interviews, may be concomitant with the weekly group treatment sessions described in this section but not a substitute for it.

(4) The treatment must focus primarily on ending the violence, holding the perpetrator accountable for his or her violence, and changing his or her behavior. The treatment must be based on nonvictim-blaming strategies and philosophies and shall include education about the individual, family, and cultural dynamics of domestic violence.

(5) Satisfactory completion of treatment must be contingent upon the perpetrator meeting specific criteria, defined by rule by the secretary of the department, and not just upon the end of a certain period of time or a certain number of sessions.

(6) The program must have policies and procedures for dealing with reoffenses and noncompliance.

(7) All evaluation and treatment services must be provided by, or under the supervision of, qualified personnel.

(8) The secretary of the department may adopt rules and establish fees as necessary to implement this section. [1991 c 301 § 7.]

Finding—1991 c 301: See note following RCW 10.99.020.

26.50.200 Title to real estate—Effect. Nothing in this chapter may affect the title to real estate: PROVIDED, That a judgment for costs or fees awarded under this chapter shall constitute a lien on real estate to the extent provided in chapter 4.56 RCW. [1985 c 303 § 7; 1984 c 263 § 15.]

26.50.210 Proceedings additional. Any proceeding under *this act is in addition to other civil or criminal remedies. [1984 c 263 § 16.]

***Reviser's note:** For translation of "this act" [1984 c 263] see Codification Tables, Volume 0.

26.50.220 Parenting plan—Designation of parent for other state and federal purposes. Solely for the purposes of all other state and federal statutes which require a designation or determination of custody, a parenting plan shall designate the parent with whom the child is scheduled to reside a majority of the time as the custodian of the child. However, this designation shall not affect either parent's rights and responsibilities under the parenting plan. In the absence of such a designation, the parent with whom the child is scheduled to reside the majority of the time shall be deemed to be the custodian of the child for the purposes of such federal and state statutes. [1989 c 375 § 26.]

Severability—1989 c 375: See RCW 26.09.914.

26.50.900 Short title. This chapter may be cited as the "Domestic Violence Prevention Act". [1984 c 263 § 1.]

26.50.901 Effective date—1984 c 263. Sections 1 through 29 of this act shall take effect on September 1, 1984. [1984 c 263 § 32.]

26.50.902 Severability—1984 c 263. 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. [1984 c 263 § 33.]

26.50.903 Severability—1992 c 111. 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. [1992 c 111 § 14.]

Title 27

LIBRARIES, MUSEUMS, AND HISTORICAL ACTIVITIES

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Chapter 27.04 STATE LIBRARY

Sections

- 27.04.010 Library created.
- 27.04.020 Library commission created—Terms, vacancies—
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- 27.04.030 Duties of commission—Qualifications of librarians.
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saults.
- 27.04.110 Learn-in-libraries program.

Certain library records exempt from public inspection: RCW 42.17.310.

27.04.010 Library created. There shall be a state library, and a state librarian as the chief executive officer in charge thereof. [1943 c 207 § 1; Rem. Supp. 1943 § 8225-1. Prior: See Reviser's note below.]

Reviser's note: For prior laws on this subject, see Laws 1929 c 159; 1921 c 7 § 13; 1913 c 72; 1903 c 171; 1901 c 43 and 46; 1893 c 63; 1891 c 37; Code 1881 §§ 2588-2613.

27.04.020 Library commission created—Terms, vacancies—Compensation and travel expenses. A state library commission is hereby created which shall consist of the superintendent of public instruction, who shall be ex officio chairman of the commission, and four commissioners appointed by the governor, one of whom shall be a library trustee at the time of appointment and one a certified librarian actually engaged in library work at the time of appointment. The first appointments shall be for terms of one, two, three, and four years respectively, and thereafter one commissioner shall be appointed each year to serve for a four year term. Vacancies shall be filled by appointments for the unexpired terms. Each commissioner shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses incurred in the actual performance of their duties in accordance with RCW 43.03.050 and 43.03.060. [1984 c 287 § 58; 1975-'76 2nd ex.s. c 34 § 66; 1967 c 198 § 1; 1963 c 202 § 1; 1961 c 45 § 1; 1941 c 5 § 1; Rem. Supp. 1941 § 10771-2. Prior: See Reviser's note following RCW 27.04.010.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

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

27.04.030 Duties of commission—Qualifications of librarians. The state library commission:

(1) May make such rules under chapter 34.05 RCW as may be deemed necessary and proper to carry out the purposes of this chapter;

(2) Shall set general policy direction pursuant to the provisions of this chapter;

(3) Shall appoint a state librarian who shall serve at the pleasure of the commission;

(4) Shall adopt a recommended budget and submit it to the governor;

(5) Shall have authority to contract with any agency of the state of Washington for the purpose of providing library materials, supplies, and equipment and employing assistants as needed for the development, growth, and operation of any library facilities or services of such agency;

(6) Shall have authority to contract with any public library in the state for that library to render library service to the blind and/or physically handicapped throughout the state. The state library commission shall have authority to compensate such public library for the cost of the service it renders under such contract;

(7) May adopt rules under chapter 34.05 RCW for the allocation of any grants of state, federal, or private funds for library purposes;

(8) Shall have authority to accept and to expend in accordance with the terms thereof any grant of federal or private funds which may become available to the state for library purposes. For the purpose of qualifying to receive

such grants, the state library commission is authorized to make such applications and reports as may be required by the federal government or appropriate private entity as a condition thereto;

(9) Shall have the authority to provide for the sale of library material in accordance with RCW 27.12.305; and

(10) Shall have authority to establish rules and regulations for, and prescribe and hold examinations to test, the qualifications of those seeking certificates as librarians.

(a) The commission shall grant librarians' certificates without examination to applicants who are graduates of library schools accredited by the American library association for general library training, and shall grant certificates to other applicants when it has satisfied itself by examination that the applicant has attainments and abilities equivalent to those of a library school graduate and is qualified to carry on library work ably and efficiently.

(b) The commission shall require a fee of not less than one dollar nor greater than that required to recover the costs associated with the application to be paid by each applicant for a librarian's certificate. Money paid as fees shall be deposited with the state treasurer.

(c) A library serving a community having over four thousand population shall not have in its employ, in the position of librarian or in any other full-time professional library position, a person who does not hold a librarian's certificate issued by the commission or its predecessor.

(d) A full-time professional library position, as intended by this subsection, is one that requires, in the opinion of the commission, a knowledge of books and of library technique equivalent to that required for graduation from an accredited library school.

(e) The provisions of this subsection apply to every library serving a community having over four thousand population and to every library operated by the state or under its authority, including libraries of institutions of higher learning: PROVIDED, That nothing in this subsection applies to the state law library or to county law libraries. [1987 c 330 § 401; 1986 c 79 § 1; 1984 c 152 § 1; 1943 c 207 § 2; 1941 c 5 § 2; Rem. Supp. 1943 § 10771-3. Prior: See Reviser's note following RCW 27.04.010.]

Construction—Application of rules—Severability—1987 c 330: See notes following RCW 28B.12.050.

27.04.045 Duties of commission—Responsibility for certain functions. The state library commission shall be responsible for the following functions:

(1) Maintaining a library at the state capitol grounds to effectively provide library and information services to members of the legislature, state officials, and state employees in connection with their official duties;

(2) Acquiring and making available information, publications, and source materials that pertain to the history of the state;

(3) Serving as the depository for newspapers published in the state of Washington thus providing a central location for a valuable historical record for scholarly, personal, and commercial reference and circulation;

(4) Collecting and distributing copies of state publications by ensuring that:

(a) The state library collects and makes available as part of its collection copies of any state publication, as defined in

RCW 40.06.010, prepared by any state agency whenever fifteen or more copies are prepared for distribution. The state library commission, on recommendation of the state librarian, may provide by rule for deposit with the state library of up to three copies of such publication; and

(b) The state library maintains a division to serve as state publications distribution center, as provided in chapter 40.06 RCW;

(5) Providing advisory services to state agencies regarding their information needs;

(6) Providing for library and information service to residents and staff of state-supported residential institutions;

(7) Providing for library and information services to persons throughout the state who are blind and/or physically handicapped;

(8) Assisting individuals and groups such as libraries, library boards, governing bodies, and citizens throughout the state toward the establishment and development of library services;

(9) Making studies and surveys of library needs in order to provide, expand, enlarge, and otherwise improve access to library facilities and services throughout the state;

(10) Serving as a primary interlibrary loan, information, reference, and referral center for all libraries in the state;

(11) Assisting in the provision of direct library and information services to individuals;

(12) Overseeing of the Washington library network in accordance with chapters 27.26 and 43.105 RCW. This subsection shall expire on June 30, 1997. [1989 c 96 § 7; 1984 c 152 § 2.]

Findings—1989 c 96: See note following RCW 27.26.010.

Severability—1989 c 96: See RCW 27.26.900.

27.04.050 Duties of librarian. The state librarian shall advise the commission and shall be responsible for implementing policy set by the commission; shall be responsible for the general management and administration of the state library; shall have the authority to acquire library materials, equipment, and supplies by purchase, exchange, gift, or otherwise; and shall have the authority to employ and terminate personnel in accordance with chapter 41.06 RCW as may be necessary to implement the purposes of this chapter and the directions of the state library commission. [1984 c 152 § 3; 1943 c 207 § 3; Rem. Supp. 1943 § 8225-2. Prior: See Reviser's note following RCW 27.04.010.]

State reports to be filed with state library: RCW 40.07.030.

27.04.080 Sale of library materials authorized—Disposition of proceeds. See RCW 27.12.305.

27.04.100 Reimbursement of employees for offender or resident assaults. (1) In recognition of prison overcrowding and the hazardous nature of employment in state institutions and offices, the legislature hereby provides a supplementary program to reimburse employees of the state library for some of their costs attributable to their being the victims of offender or resident assaults. This program shall be limited to the reimbursement provided in this section.

(2) An employee is only entitled to receive the reimbursement provided in this section if the state librarian, or

the state librarian's designee, finds that each of the following has occurred:

(a) An offender or resident has assaulted the employee while the employee is performing the employee's official duties and as a result thereof the employee has sustained injuries which have required the employee to miss days of work; and

(b) The assault cannot be attributable to any extent to the employee's negligence, misconduct, or failure to comply with any rules or conditions of employment.

(3) The reimbursement authorized under this section shall be as follows:

(a) The employee's accumulated sick leave days shall not be reduced for the workdays missed;

(b) For each workday missed for which the employee is not eligible to receive compensation under chapter 51.32 RCW, the employee shall receive full pay; and

(c) With respect to workdays missed for which the employee will receive or has received compensation under chapter 51.32 RCW, the employee shall be reimbursed in an amount which, when added to that compensation, will result in the employee receiving full pay for the workdays missed.

(4) Reimbursement under this section may not last longer than three hundred sixty-five consecutive days after the date of the injury.

(5) The employee shall not be entitled to the reimbursement provided in subsection (3) of this section for any workday for which the state librarian, or the state librarian's designee, finds that the employee has not diligently pursued his or her compensation remedies under chapter 51.32 RCW.

(6) The reimbursement shall only be made for absences which the state librarian, or the state librarian's designee, believes are justified.

(7) While the employee is receiving reimbursement under this section, he or she shall continue to be classified as a state employee and the reimbursement amount shall be considered as salary or wages.

(8) All reimbursement payments required to be made to employees under this section shall be made by the state library. The payments shall be considered as a salary or wage expense and shall be paid by the state library in the same manner and from the same appropriations as other salary and wage expenses of the state library.

(9) Should the legislature revoke the reimbursement authorized under this section or repeal this section, no affected employee is entitled thereafter to receive the reimbursement as a matter of contractual right.

(10) For the purposes of this section, "offender or resident" means: (a) Inmate as defined in RCW 72.09.020, (b) offender as defined in RCW 9.94A.030, (c) any other person in the custody of or subject to the jurisdiction of the department of corrections, or (d) a resident of a state institution. [1990 c 68 § 1.]

27.04.110 Learn-in-libraries program. (1) The learn-in-libraries program is hereby created. The state library commission shall administer the program.

(2) The state library commission may provide grants, with funds appropriated for that purpose, to local libraries to develop and implement learn-in-library programs that provide after school and vacation programs for children.

Grant applicants shall be encouraged to develop programs that use older adult volunteers and other community volunteer resources. The programs shall be designed to increase literacy, improve reading skills, encourage reading, and provide homework assistance for school-age children who would otherwise be unsupervised. Applicants shall be encouraged to develop innovative models to provide services.

(3) In addition to grants provided under subsection (2) of this section, the state library commission may provide grants, with funds appropriated for that purpose, to local libraries to develop and implement other innovative programs for children throughout the year. Programs may be developed in cooperation with a school district and occur during the school day. Programs shall be designed to provide services to children or to help provide training to parents or other persons working with children in order to increase literacy, encourage reading, promote reading readiness, and improve reading and other learning skills. The commission shall encourage grant applicants to develop programs that use older adult volunteers and other community volunteer resources and to develop innovative models to provide services.

(4) The state library commission shall report to the legislature on the results of the program by December 1, 1991. [1991 c 91 § 1; 1990 c 290 § 2.]

Chapter 27.12 PUBLIC LIBRARIES

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Rural library district regular property tax levy: RCW 84.52.063.
Special purpose districts, expenditures to recruit job candidates: RCW 42.24.170.

27.12.010 Definitions. As used in this chapter and *chapter 27.08 RCW, unless the context requires a different meaning:

(1) "Governmental unit" means any county, city, town, rural county library district, intercounty rural library district, or island library district;

(2) "Legislative body" means the body authorized to determine the amount of taxes to be levied in a governmental unit; in rural county library districts, in intercounty rural library districts, and in island library districts, the legislative body shall be the board of library trustees of the district;

(3) "Library" means a free public library supported in whole or in part with money derived from taxation; and

(4) "Regional library" means a free public library maintained by two or more counties or other governmental units as provided in RCW 27.12.080; and

(5) "Rural county library district" means a library serving all the area of a county not included within the area of incorporated cities and towns: PROVIDED, That any city or town with a population of one hundred thousand or less at the time of annexation may be included therein as provided in RCW 27.12.360 through 27.12.390; and

(6) "Intercounty rural library district" means a municipal corporation organized to provide library service for all areas outside of incorporated cities and towns within two or more

counties: PROVIDED, That any city or town with a population of one hundred thousand or less at the time of annexation may be included therein as provided in RCW 27.12.360 through 27.12.390; and

(7) "Island library district" means a municipal corporation organized to provide library service for all areas outside of incorporated cities and towns on a single island only, and not all of the area of the county, in counties composed entirely of islands and having a population of less than twenty-five thousand at the time the island library district was created: PROVIDED, That any city or town with a population of one hundred thousand or less at the time of annexation may be included therein as provided in RCW 27.12.360 through 27.12.390. [1982 c 123 § 1; 1981 c 26 § 1; 1977 ex.s. c 353 § 5; 1965 c 122 § 1; 1947 c 75 § 10; 1941 c 65 § 1; 1935 c 119 § 2; Rem. Supp. 1947 § 8226-2.]

*Reviser's note: The sections in chapter 27.08 RCW, RCW 27.08.010 and 27.08.045 were repealed by 1987 c 330 § 402.

27.12.020 Policy of state. It is hereby declared to be the policy of the state, as a part of its provision for public education, to promote the establishment and development of public library service throughout its various subdivisions. [1935 c 119 § 1; RRS § 8226-1. FORMER PART OF SECTION: 1941 c 65 § 2; 1935 c 119 § 3; Rem. Supp. 1941 § 8226-3 now codified as RCW 27.12.025.]

27.12.025 Authorization. Any governmental unit has power to establish and maintain a library, either by itself or in cooperation with one or more other governmental units. [1941 c 65 § 2; 1935 c 119 § 3; Rem. Supp. 1941 § 8226-3. Formerly RCW 27.12.020, part.]

27.12.030 Libraries, how established. A library may be established in any county, city, or town either (1) by its legislative body of its own initiative; or (2) upon the petition of one hundred taxpayers of such a governmental unit, the legislative body shall submit to a vote of the qualified electors thereof, at the next municipal or special election held therein (in the case of a city or town) or the next general election or special election held therein (in the case of a county), the question whether a library shall be established; and if a majority of the electors voting on the question vote in favor of the establishment of a library, the legislative body shall forthwith establish one. [1965 c 122 § 2; 1941 c 65 § 3; 1935 c 119 § 4; Rem. Supp. 1941 § 8226-4. Prior: 1915 c 12 § 1; 1913 c 123 § 1; 1909 c 116 § 1; 1901 c 166 § 1.]

27.12.040 Rural library districts—Establishment. The procedure for the establishment of a rural county library district shall be as follows:

(1) Petitions signed by at least ten percent of the registered voters of the county who voted in the last general election, outside of the area of incorporated cities and towns, asking that the question, "Shall a rural county library district be established?" be submitted to a vote of the people, shall be filed with the county legislative authority.

(2) The county legislative authority, after having determined that the petitions were signed by the requisite number of registered voters, shall place the proposition for

the establishment of a rural county library district on the ballot for the vote of the people of the county, outside incorporated cities and towns, at the next succeeding general or special election.

(3) If a majority of those voting on the proposition vote in favor of the establishment of the rural county library district, the county legislative authority shall forthwith declare it established. [1990 c 259 § 1; 1955 c 59 § 4. Prior: 1947 c 75 § 11, part; 1943 c 251 § 1, part; 1941 c 65 § 4, part; Rem. Supp. 1947 § 8226-4a, part.]

Dissolution—Disposition of property: RCW 27.12.320.

Dissolution of island library district: RCW 27.12.450.

27.12.050 Rural library districts—Board of library trustees—Tax levies. After the board of county commissioners has declared a rural county library district established, it shall appoint a board of library trustees and provide funds for the establishment and maintenance of library service for the district by making a tax levy on the property in the district of not more than fifty cents per thousand dollars of assessed value per year sufficient for the library service as shown to be required by the budget submitted to the board of county commissioners by the board of library trustees, and by making a tax levy in such further amount as shall be authorized pursuant to RCW 27.12.222 or RCW 84.52.052 or 84.52.056. Such levies shall be a part of the general tax roll and shall be collected as a part of the general taxes against the property in the district. [1973 1st ex.s. c 195 § 5; 1955 c 59 § 5. Prior: 1947 c 75 § 11, part; 1943 c 251 § 1, part; 1941 c 65 § 4, part; Rem. Supp. 1947 § 8226-4a, part.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Budget for capital outlays—Accumulation of funds: RCW 27.12.220.

Capital outlays—Bonds—Excess levies: RCW 27.12.222.

27.12.060 Rural library districts—General powers. 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. [1984 c 186 § 6; 1983 c 167 § 19; 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.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

27.12.070 Rural library districts—Disbursement of revenues and collection of taxes. The county treasurer of the county in which any rural county library district is created shall receive and disburse all district revenues and collect all taxes levied under this chapter. [1984 c 186 § 7; 1973 1st ex.s. c 195 § 6; 1970 ex.s. c 42 § 2; 1955 c 59 § 7. Prior: 1947 c 75 § 11, part; 1943 c 251 § 1, part; 1941 c 65 § 4, part; Rem. Supp. 1947 § 8226-4a, part.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

Annual appropriations—Control of expenditures: RCW 27.12.240.

Capital outlays—General obligation bonds—Excess levies: RCW 27.12.222.

27.12.079 Disincorporation of district located in county with a population of two hundred ten thousand or more and inactive for five years. See chapter 57.90 RCW.

27.12.080 Regional libraries. Two or more counties, or other governmental units, by action of their legislative bodies, may join in establishing and maintaining a regional library under the terms of a contract to which all will agree. The expenses of the regional library shall be apportioned between or among the contracting parties concerned on such basis as shall be agreed upon in the contract. The treasurer of one of the governmental units, as shall be provided in the contract, shall have the custody of the funds of the regional library; and the treasurers of the other governmental units concerned shall transfer quarterly to him all moneys collected for free public library purposes in their respective governmental units. If the legislative body of any governmental unit decides to withdraw from a regional library contract, the governmental unit withdrawing shall be entitled to a division of the property on the basis of its contributions. [1941 c 65 § 5; 1935 c 119 § 5; Rem. Supp. 1941 § 8226-5.]

27.12.090 Intercounty rural library districts—Establishment. Intercounty rural library districts may be established to provide throughout several counties free public library service similar to that provided within a single county by a rural county library district. [1947 c 75 § 1; Rem. Supp. 1947 § 8246-1.]

Dissolution—Disposition of property: RCW 27.12.320.

27.12.100 Intercounty rural library districts—Establishment—Procedure. An intercounty rural library district shall be established by joint action of two or more counties proceeding by either of the following alternative methods:

(1) The boards of county commissioners of any two or more counties shall adopt identical resolutions proposing the formation of such a district to include all of the areas outside of incorporated cities or towns in such counties as may be designated in such resolutions. In lieu of such resolutions a petition of like purport signed by ten percent of the registered voters residing outside of incorporated cities or towns of a county, may be filed with the county auditor thereof, and shall have the same effect as a resolution. The proposition for the formation of the district as stated on the petition shall be prepared by the attorney general upon request of the state library commission. Action to initiate the formation of such a district shall become ineffective in any county if corresponding action is not completed within one year thereafter by each other county included in such proposal. The county auditor in each county shall check the validity of the signatures on the petition and shall certify to the board of county commissioners the sufficiency of the signatures. If each petition contains the signatures of ten percent of the registered voters residing outside the incorporated cities and towns of the county, each board of county commissioners shall pass a resolution calling an election for the purpose of

submitting the question to the voters and setting the date of said election. When such action has been taken in each of the counties involved, notification shall be made by each board of county commissioners to the board of county commissioners of the county having the largest population according to the last federal census, who shall give proper notification to each county auditor. At the next general or special election held in the respective counties there shall be submitted to the voters in the areas outside of incorporated cities and towns a question as to whether an intercounty rural library district shall be established as outlined in the resolutions or petitions. Notice of said election shall be given the county auditor pursuant to RCW 29.27.080. The county auditor shall provide for the printing of a separate ballot and shall provide for the distribution of ballots to the polling places pursuant to RCW 29.04.020. The county auditor shall instruct the election boards in split precincts. The respective county canvassing boards in each county to be included within the intercounty rural library district shall canvass the votes and certify the results to the county auditor pursuant to chapter 29.62 RCW; the result shall then be certified by each county auditor to the county auditor of the county having the largest population according to the last federal census. If a majority of the electors voting on the proposition in each of the counties affected shall vote in favor of such district it shall thereby become established, and the board of county commissioners of the county having the largest population according to the last federal census shall declare the intercounty rural library district established. If two or more of the counties affected are in an existing intercounty rural library district, then the electors in areas outside incorporated cities and towns in those counties shall vote as a unit and the electors in areas outside incorporated cities and towns in each of the other affected counties shall vote as separate units. If a majority of the electors voting on the proposition in the existing district and a majority of the voters in any of the other affected counties shall vote in favor of an expanded intercounty rural library district it shall thereby become established.

(2) The county commissioners of two or more counties meeting in joint session attended by a majority of the county commissioners of each county may, by majority vote of those present, order the establishment of an intercounty rural library district to include all of the area outside of incorporated cities and towns in as many of the counties represented at such joint meeting as shall be determined by resolution of such joint meeting. If two or more counties are in an existing intercounty rural library district, then a majority vote of all of the commissioners present from those counties voting as a unit, and a majority vote of the commissioners present from any other county shall cause the joint session to order the establishment of an expanded intercounty rural library district. No county, however, shall be included in such district if a majority of its county commissioners vote against its inclusion in such district. [1965 c 63 § 1; 1961 c 82 § 1; 1947 c 75 § 2; Rem. Supp. 1947 § 8246-2.]

27.12.110 Intercounty rural library districts—Expansion of existing districts. An existing rural county library district may be expanded into an intercounty rural library district or an established intercounty rural library

district may be expanded to include additional counties by joint action of all counties included in the proposed expanded district taken in the same manner as prescribed for the initiation of an intercounty rural library district. [1947 c 75 § 3; Rem. Supp. 1947 § 8246-3.]

27.12.120 Intercounty rural library districts—Assumption of property, assets, liabilities. All property, assets and liabilities of preexisting library districts within the area included in an intercounty rural library district shall pass to and be assumed by an intercounty rural library district: PROVIDED, That where within any intercounty rural library district heretofore or hereafter organized under the provisions of this chapter a preexisting library district had incurred a bonded indebtedness which was outstanding at the time of the formation of the intercounty rural library district, such preexisting library district shall retain its corporate existence insofar as is necessary for the purpose until the bonded indebtedness outstanding against it on and after the effective date of said formation has been paid in full: PROVIDED FURTHER, That a special election may be called by the board of trustees of the intercounty rural library district, to be held at the next general or special election held in the respective counties for the purpose of affording the voters residing within the area outside of the preexisting library district an opportunity to assume the obligation of the bonded indebtedness of the preexisting library district or the question may be submitted to the voters as a separate proposition at the election on the proposal for the formation of the intercounty rural library district. [1961 c 82 § 2; 1947 c 75 § 4; Rem. Supp. 1947 § 8246-4.]

27.12.130 Intercounty rural library districts—Board of trustees. Immediately following the establishment of an intercounty rural library district the boards of county commissioners of the counties affected shall jointly appoint a board of five or seven trustees for the district in accordance with RCW 27.12.190. The board of trustees shall appoint a librarian for the district. [1959 c 133 § 1; 1947 c 75 § 5; Rem. Supp. 1947 § 8246-5.]

27.12.140 Intercounty rural library districts—Name may be adopted. The board of trustees of an intercounty rural library district may adopt a name by which the district shall be known and under which it shall transact all of its business. [1947 c 75 § 6; Rem. Supp. 1947 § 8246-6.]

27.12.150 Intercounty rural library districts—Tax levies. Funds for the establishment and maintenance of the library service of the district shall be provided by the boards of county commissioners of the respective counties by means of an annual tax levy on the property in the district of not more than fifty cents per thousand dollars of assessed value per year. The tax levy in the several counties shall be at a uniform rate and shall be based on a budget to be compiled by the board of trustees of the intercounty rural library district who shall determine the uniform tax rate necessary and certify their determination to the respective boards of county commissioners.

Excess levies authorized pursuant to RCW 27.12.222 and RCW 84.52.052 or 84.52.056 shall be at a uniform rate

which uniform rate shall be determined by the board of trustees of the intercounty rural library district and certified to the respective boards of county commissioners. [1973 1st ex.s. c 195 § 7; 1955 c 59 § 8; 1947 c 75 § 7; Rem. Supp. 1947 § 8246-7.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.
Budget for capital outlays—Accumulation of funds: RCW 27.12.220.
Capital outlays—Bonds—Excess levies: RCW 27.12.222.

27.12.160 Intercounty rural library districts—District treasurer. The board of trustees of an intercounty rural library district shall designate the county treasurer of one of the counties included in the district to act as treasurer for the district. All moneys raised for the district by taxation within the participating counties or received by the district from any other sources shall be paid over to him, and he shall disburse the funds of the district upon warrants drawn thereon by the auditor of the county to which he belongs pursuant to vouchers approved by the trustees of the district. [1947 c 75 § 8; Rem. Supp. 1947 § 8246-8.]

Annual expenditures—Control of appropriations: RCW 27.12.240.

27.12.170 Intercounty rural library districts—Powers of board—Procedures. Except as otherwise specifically provided intercounty rural library districts and the trustees thereof shall have the same powers as are prescribed by RCW 27.12.040 through 27.12.070, for rural county library districts and shall follow the same procedures and be subject to the same limitations as are provided therein with respect to the contracting of indebtedness. [1947 c 75 § 9; Rem. Supp. 1947 § 8246-9.]

27.12.180 Contracts for library service. Instead of establishing or maintaining an independent library, the legislative body of any governmental unit authorized to maintain a library shall have power to contract to receive library service from an existing library, the board of trustees of which shall have reciprocal power to contract to render the service with the consent of the legislative body of its governmental unit. Such a contract shall require that the existing library perform all the functions of a library within the governmental unit wanting service. In like manner a legislative body may contract for library service from a library not owned by a public corporation but maintained for free public use: PROVIDED, That such a library be subject to inspection by the state librarian and be certified by him as maintaining a proper standard. Any school district may contract for school library service from any existing library, such service to be paid for from funds available to the school district for library purposes. [1941 c 65 § 6; 1935 c 119 § 7; Rem. Supp. 1941 § 8226-7.]

27.12.190 Library trustees—Appointment, election, removal, compensation. The management and control of a library shall be vested in a board of either five or seven trustees as hereinafter in this section provided. In cities and towns five trustees shall be appointed by the mayor with the consent of the legislative body. In counties, rural county library districts, and island library districts, five trustees shall be appointed by the board of county commissioners. In a

regional library district a board of either five or seven trustees shall be appointed by the joint action of the legislative bodies concerned. In intercounty rural library districts a board of either five or seven trustees shall be appointed by the joint action of the boards of county commissioners of each of the counties included in a district. The first appointments for boards comprised of but five trustees shall be for terms of one, two, three, four, and five years respectively, and thereafter a trustee shall be appointed annually to serve for five years. The first appointments for boards comprised of seven trustees shall be for terms of one, two, three, four, five, six, and seven years respectively, and thereafter a trustee shall be appointed annually to serve for seven years. No person shall be appointed to any board of trustees for more than two consecutive terms. Vacancies shall be filled for unexpired terms as soon as possible in the manner in which members of the board are regularly chosen.

A library trustee shall not receive a salary or other compensation for services as trustee, but necessary expenses actually incurred shall be paid from the library funds.

A library trustee in the case of a city or town may be removed only by vote of the legislative body. A trustee of a county library, a rural county library district library, or an island library district library may be removed for just cause by the county commissioners after a public hearing upon a written complaint stating the ground for removal, which complaint, with a notice of the time and place of hearing, shall have been served upon the trustee at least fifteen days before the hearing. A trustee of an intercounty rural library district may be removed by the joint action of the board of county commissioners of the counties involved in the same manner as provided herein for the removal of a trustee of a county library. [1982 c 123 § 8; 1981 c 26 § 2; 1965 c 122 § 3; 1959 c 133 § 2; 1947 c 75 § 12; 1941 c 65 § 7; 1939 c 108 § 1; 1935 c 119 § 8; Rem. Supp. 1947 § 8226-8. Prior: 1915 c 12 § 2; 1909 c 116 § 4; 1901 c 166 § 4. Formerly RCW 27.12.190 and 27.12.200.]

27.12.210 Library trustees—Organization—Bylaws—Powers and duties. The trustees, immediately after their appointment or election, shall meet and organize by the election of such officers as they deem necessary. They shall:

(1) Adopt such bylaws, rules, and regulations for their own guidance and for the government of the library as they deem expedient;

(2) Have the supervision, care, and custody of all property of the library, including the rooms or buildings constructed, leased, or set apart therefor;

(3) Employ a librarian, and upon his recommendation employ such other assistants as may be necessary, all in accordance with the provisions of *RCW 27.08.010, prescribe their duties, fix their compensation, and remove them for cause;

(4) Submit annually to the legislative body a budget containing estimates in detail of the amount of money necessary for the library for the ensuing year, except that in a library district the board of library trustees shall prepare its budget, certify the same and deliver it to the board of county commissioners in ample time for it to make the tax levies for the purpose of the district;

- (5) Have exclusive control of the finances of the library;
- (6) Accept such gifts of money or property for library purposes as they deem expedient;
- (7) Lease or purchase land for library buildings;
- (8) Lease, purchase, or erect an appropriate building or buildings for library purposes, and acquire such other property as may be needed therefor;
- (9) Purchase books, periodicals, maps, and supplies for the library; and
- (10) Do all other acts necessary for the orderly and efficient management and control of the library. [1982 c 123 § 9; 1941 c 65 § 8; 1935 c 119 § 9; Rem. Supp. 1941 § 8226-9. Prior: 1909 c 116 § 5; 1901 c 166 § 5.]

*Reviser's note: RCW 27.08.010 was repealed by 1987 c 330 § 402. See RCW 27.04.030(10) for qualifications of librarians.

27.12.215 Job recruitment expenditures authorized. The trustees of a library or a library district have the authority to spend funds to recruit job candidates. The trustees have the authority to reimburse job candidates for reasonable and necessary travel expenses including transportation, subsistence, and lodging. [1979 ex.s. c 40 § 1.]

27.12.220 Rural, island, and intercounty rural districts—Budget for capital outlays—Accumulation of funds. The trustees of any rural county library district, any island library district, or any intercounty rural library district may include in the annual budget of such district an item for the accumulation during such year of a specified sum of money to be expended in a future year for the acquisition, enlargement or improvement of real or personal property for library purposes. [1982 c 123 § 10; 1947 c 22 § 1; Rem. Supp. 1947 § 8246a.]

27.12.222 Rural, island, and intercounty rural districts—General obligation bonds—Excess levies. A rural county library district, intercounty rural library district, or island library district may contract indebtedness and issue general obligation bonds not to exceed an amount, together with any outstanding nonvoter approved general obligation indebtedness, equal to one-tenth of one percent of the value of the taxable property within the district, as the term "value of the taxable property" is defined in RCW 39.36.015. The maximum term of nonvoter approved general obligation bonds shall not exceed six years. A rural county library district, island library district, or intercounty rural library district may additionally contract indebtedness and issue general obligation bonds for capital purposes only, together with any outstanding general indebtedness, not to exceed an amount equal to one-half of one percent of the value of the taxable property within the district, as the term "value of the taxable property" is defined in RCW 39.36.015 whenever a proposition authorizing the issuance of such bonds has been approved by the voters of the district pursuant to RCW 39.36.050, by three-fifths of the persons voting on the proposition at which election the number of persons voting on the proposition shall constitute not less than forty percent of the total number of votes cast in such taxing district at the last preceding general election. If the voters shall so authorize at an election held pursuant to RCW 39.36.050, the district may levy annual taxes in excess of normal legal

limitations to pay the principal and interest upon such bonds as they shall become due. The excess levies mentioned in this section or in RCW 84.52.052 or 84.52.056 may be made notwithstanding anything contained in RCW 27.12.050 or 27.12.150 or any other statute pertaining to such library districts. [1984 c 186 § 8; 1982 c 123 § 11; 1970 ex.s. c 42 § 3; 1955 c 59 § 1.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

Island library districts—Tax levies: RCW 27.12.420.

27.12.223 Bonds—Sale—Security for deposit. Bonds authorized by RCW 27.12.222 shall be issued and sold in accordance with chapter 39.46 RCW. All such bonds shall be legal securities for any bank or trust company for deposit with the state treasurer or any county or city treasurer as security for deposits in lieu of a surety bond under any law relating to deposits of public moneys. [1984 c 186 § 9; 1983 c 167 § 20; 1970 ex.s. c 56 § 6; 1969 ex.s. c 232 § 4; 1955 c 59 § 2.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

Purpose—1970 ex.s. c 56: See note following RCW 39.52.020.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.52.020.

27.12.240 Annual appropriations—Control of expenditures. After a library shall have been established or library service contracted for, the legislative body of the governmental unit for which the library was established or the service engaged, shall appropriate money annually for the support of the library. All funds for the library, whether derived from taxation or otherwise, shall be in the custody of the treasurer of the governmental unit, and shall be designated by him in some manner for identification, and shall not be used for any but library purposes. The board of trustees shall have the exclusive control of expenditures for library purposes subject to any examination of accounts required by the state and money shall be paid for library purposes only upon vouchers of the board of trustees, without further audit. The board shall not make expenditures or incur indebtedness in any year in excess of the amount of money appropriated and/or available for library purposes. [1965 c 122 § 4; 1941 c 65 § 9; 1939 c 108 § 3; 1935 c 119 § 10; Rem. Supp. 1941 § 8226-10. Prior: 1909 c 116 § 3; 1901 c 166 § 3. Formerly RCW 27.12.240 and 27.12.250.]

27.12.260 Annual report of trustees. At the close of each year the board of trustees of every library shall make a report to the legislative body of the governmental unit wherein the board serves, showing the condition of their trust during the year, the sums of money received for the library fund from taxes and other sources, the sums of money expended and the purposes of the expenditures, the number of books and periodicals on hand, the number added during the year, the number retired, the number loaned out, and such other statistics and information and such suggestions as they deem of public interest. A copy of this report shall be

filed with the state librarian. [1935 c 119 § 12; RRS § 8226-12. Prior: 1909 c 116 § 8; 1901 c 166 § 8.]

27.12.270 Rules and regulations—Free use of libraries. Every library established or maintained under *this act shall be free for the use of the inhabitants of the governmental unit in which it is located, subject to such reasonable rules and regulations as the trustees find necessary to assure the greatest benefit to the greatest number, except that the trustees may charge a reasonable fee for the use of certain duplicate copies of popular books. [1935 c 119 § 13; RRS § 8226-13. Prior: 1909 c 116 § 9, part; 1901 c 166 § 9, part.]

***Reviser's note:** Term "this act" was first used in basic act, 1935 c 119 and appeared in subsequent amendments. Chapter 119, Laws of 1935 was codified in RCW 27.08.010, 27.12.010 through 27.12.080, 27.12.180 through 27.12.210, 27.12.230 through 27.12.280, 27.12.290 through 27.12.320, 27.12.330, and 27.12.340.

27.12.280 Use by nonresidents—Exchange of books. The board of trustees of a library, under such rules and regulations as it may deem necessary and upon such terms and conditions as may be agreed upon, may allow nonresidents of the governmental unit in which the library is situated to use the books thereof, and may make exchanges of books with any other library, either permanently or temporarily. [1935 c 119 § 14; RRS § 8226-14. Prior: 1909 c 116 § 10; 1901 c 166 § 10.]

27.12.285 Library services for Indian tribes. The legislature finds that it is necessary to give the several boards of library trustees in this state additional powers in order to effectuate the state's policy with regard to libraries as set forth in RCW 27.12.020. On and after March 27, 1975 the board of library trustees in any county of this state, in addition to any other powers and duties, is hereby authorized to provide library services to Indian tribes recognized as such by the federal government or to supplement any existing library services of such an Indian tribe. The power granted by this section shall extend beyond the geographic limits of the library district and the county or counties in which the district is located. [1975 c 50 § 1.]

27.12.290 Violators may be excluded. A board of library trustees may exclude from the use of the library under its charge any person who wilfully and persistently violates any rule or regulation prescribed for the use of the library or its facilities or any person whose physical condition is deemed dangerous or offensive to other library users. [1935 c 119 § 15; RRS § 8226-15. Prior: 1909 c 116 § 9, part; 1901 c 166 § 9, part.]

27.12.300 Gifts—Title to property. The title to money or property given to or for the use or benefit of a library shall vest in the board of trustees, to be held and used according to the terms of the gift. [1935 c 119 § 18; RRS § 8226-18. Prior: 1909 c 116 § 20; 1901 c 166 § 20.]

27.12.305 Sale of library materials authorized—Disposition of proceeds. Any public library, including the state library created pursuant to chapter 27.04 RCW, shall

have the authority to provide for the sale of library materials developed by the library staff for its use but which are of value to others such as book catalogs, books published by the library, indexes, films, slides, book lists, and similar materials.

The library commission, board of library trustees, or other governing authority charged with the direct control of a public library shall determine the prices and quantities of materials to be prepared and offered for sale. Prices shall be limited to the publishing and preparation costs, exclusive of staff salaries and overhead. Any moneys received from the sales of such materials shall be placed in the appropriate library fund.

Nothing in this section shall be construed to authorize any library to charge any resident for a library service nor to authorize any library to sell materials to a branch library or library which is part of a depository library system when such materials may be distributed free of cost to such library nor shall this section be construed to prevent, curtail, or inhibit any free distribution programs or exchange programs between libraries or between libraries and other agencies. [1972 ex.s. c 90 § 1.]

27.12.310 Charter provisions superseded. Every existing free public library shall be considered as if established under *this act, and the board of trustees and the legislative body of the governmental unit in which the library is located shall proceed forthwith to make such changes as may be necessary to effect compliance with the terms hereof; and every existing contract for library service shall continue in force and be subject to *this act until the contract be terminated or a library be established by the governmental unit for which the service was engaged. The provisions of *this act shall be construed as superseding the provisions of any municipal charter in conflict herewith. [1935 c 119 § 19; RRS § 8226-19.]

***Reviser's note:** "This act," see note following RCW 27.12.270.

27.12.320 Dissolution—Disposition of property. A library established or maintained under this chapter (except a regional or a rural county library district library, an intercounty rural library district library, or an island library district library) may be abolished only in pursuance of a vote of the electors of the governmental unit in which the library is located, taken in the manner prescribed in RCW 27.12.030 for a vote upon the establishment of a library. If a library of a city or town be abolished, the books and other printed or written matter belonging to it shall go to the library of the county whereof the municipality is a part, if there be a county library, but if not, then to the state library. If a library of a county or region be abolished, the books and other printed matter belonging to it shall go to the state library. All other library property shall be disposed of as the legislative body of the governmental unit shall direct.

After a rural county library district, an island library district, or an intercounty rural library district has been in operation for three or more years, it may be dissolved pursuant to a majority vote of all of the qualified electors residing outside of incorporated cities and towns voting upon a proposition for its dissolution, at a general election, which proposition may be placed upon the ballot at any such

election whenever a petition by ten percent or more qualified voters residing outside of incorporated cities or towns within a rural county library district, an island library district, or an intercounty rural library district requesting such dissolution shall be filed with the board of trustees of such district not less than ninety days prior to the holding of any such election. An island library district may also be dissolved pursuant to RCW 27.12.450.

If a rural county library district is dissolved, the books and other printed matter belonging to it shall go to the state library. All other library property shall be disposed of as the legislative body of the governmental unit shall direct. When an intercounty rural library district is dissolved, the books, funds and other property thereof shall be divided among the participating counties in the most equitable manner possible as determined by the state librarian, who shall give consideration to such items as the original source of property, the amount of funds raised from each county by the district, and the ability of the counties to make further use of such property or equipment for library purposes. Printed material which the state librarian finds will not be used by any of the participating counties for further library purposes shall be turned over to the state library.

When an island library district is dissolved pursuant to this section, the books and other printed matter belonging to it shall go to the state library. All other library property shall be disposed of as the legislative body of the governmental unit shall direct. When an island library district is dissolved due to the establishment of a county library district, pursuant to RCW 27.12.450, all property, assets, and liabilities of the preexisting island library district within the area included in the county rural library district shall pass to and be assumed by the county rural library district: PROVIDED, That where within any county rural library district heretofore or hereafter organized under the provisions of this chapter a preexisting island library district has incurred a bonded indebtedness which was outstanding at the time of the formation of the county rural library district, the preexisting island library district shall retain its corporate existence insofar as is necessary for the purpose until the bonded indebtedness outstanding against it on and after the effective date of the formation has been paid in full: PROVIDED FURTHER, That a special election may be called by the board of trustees of the county rural library district, to be held at the next general or special election held in the respective counties, for the purpose of affording the voters residing within the area outside of the preexisting island library district an opportunity to assume the obligation of the bonded indebtedness of the preexisting island library district or the question may be submitted to the voters as a separate proposition at the election on the proposal for the formation of the county rural library district. [1982 c 123 § 12; 1965 c 122 § 5; 1947 c 75 § 13; 1935 c 119 § 20; Rem. Supp. 1947 § 8226-20. Prior: 1909 c 116 § 19; 1901 c 166 § 19.]

27.12.321 School district public libraries abolished—Disposition of assets. School district public libraries organized under chapter 119, Laws of 1935, as amended prior to *this 1965 amendatory act, are hereby abolished as of January 1, 1966.

All assets belonging to any school district public library abolished by this section shall go to the rural county library district of the county in which the school district public library is located. [1965 c 122 § 6.]

***Reviser's note:** "This 1965 amendatory act" [1965 ex.s. c 122] consists of the enactment of RCW 27.12.321, amendments to RCW 27.12.010, 27.12.030, 27.12.190, 27.12.240, and 27.12.320, and the repeal of RCW 27.12.230.

27.12.330 Penalty for injury to property. Whoever intentionally injures, defaces, or destroys any property belonging to or deposited in any public library, reading room, or other educational institution, shall be guilty of a misdemeanor. [1935 c 119 § 16; RRS § 8226-16. Prior: 1909 c 116 § 11; 1901 c 166 § 11.]

27.12.340 Wilfully retaining books—Infraction. It is a class 4 civil infraction for any person to wilfully retain any book, newspaper, magazine, pamphlet, manuscript, or other property belonging in or to any public library, reading room, or other educational institution, for thirty days after notice in writing to return the same, given after the expiration of the time that by the rules of such institution such article or other property may be kept. [1987 c 456 § 29; 1935 c 119 § 17; RRS § 8226-17. Prior: 1909 c 116 § 12; 1901 c 166 § 12.]

Legislative finding—1987 c 456: See RCW 7.80.005.

Effective date—1987 c 456 §§ 9-31: See RCW 7.80.901.

27.12.350 Executory conditional sales contracts for purchase of property—Limit on indebtedness—Election, when. See RCW 39.30.010.

27.12.355 Rural county library district, island library district, or intercounty rural library district—Withdrawal or reannexation of areas. (1) As provided in this section, a rural county library district, island library district, or intercounty rural library district may withdraw areas from its boundaries, or reannex areas into the library district that previously had been withdrawn from the library district under this section.

(2) The withdrawal of an area shall be authorized upon: (a) Adoption of a resolution by the board of trustees requesting the withdrawal and finding that, in the opinion of the board, inclusion of this area within the library district will result in a reduction of the district's tax levy rate under the provisions of RCW 84.52.010; and (b) adoption of a resolution by the city or town council approving the withdrawal, if the area is located within the city or town, or adoption of a resolution by the county legislative authority of the county within which the area is located approving the withdrawal, if the area is located outside of a city or town. A withdrawal shall be effective at the end of the day on the thirty-first day of December in the year in which the resolutions are adopted, but for purposes of establishing boundaries for property tax purposes, the boundaries shall be established immediately upon the adoption of the second resolution.

The authority of an area to be withdrawn from a library district as provided under this section is in addition, and not subject, to the provisions of RCW 27.12.380.

The withdrawal of an area from the boundaries of a library district shall not exempt any property therein from taxation for the purpose of paying the costs of redeeming any indebtedness of the library district existing at the time of the withdrawal.

(3) An area that has been withdrawn from the boundaries of a library district under this section may be reannexed into the library district upon: (a) Adoption of a resolution by the board of trustees proposing the reannexation; and (b) adoption of a resolution by the city or town council approving the reannexation, if the area is located within the city or town, or adoption of a resolution by the county legislative authority of the county within which the area is located approving the reannexation, if the area is located outside of a city or town. The reannexation shall be effective at the end of the day on the thirty-first day of December in the year in which the adoption of the second resolution occurs, but for purposes of establishing boundaries for property tax purposes, the boundaries shall be established immediately upon the adoption of the second resolution. Referendum action on the proposed reannexation may be taken by the voters of the area proposed to be reannexed if a petition calling for a referendum is filed with the city or town council, or county legislative authority, within a thirty-day period after the adoption of the second resolution, which petition has been signed by registered voters of the area proposed to be reannexed equal in number to ten percent of the total number of the registered voters residing in that area.

If a valid petition signed by the requisite number of registered voters has been so filed, the effect of the resolutions shall be held in abeyance and a ballot proposition to authorize the reannexation shall be submitted to the voters of the area at the next special election date specified in *RCW 29.13.020 that occurs forty-five or more days after the petitions have been validated. Approval of the ballot proposition authorizing the reannexation by a simple majority vote shall authorize the reannexation. [1987 c 138 § 1.]

***Reviser's note:** As enacted by 1987 c 138 § 1, this section contained an apparently erroneous reference to RCW 29.13.030, a section repealed in 1965. Pursuant to RCW 1.08.015, this reference has been changed to RCW 29.13.020, a later enactment of the section repealed.

27.12.360 Annexation of city or town into rural county library district, island library district, or inter-county rural library district—Initiation procedure. Any city or town with a population of one hundred thousand or less at the time of annexation may become a part of any rural county library district, island library district, or inter-county rural library district lying contiguous thereto by annexation in the following manner: The inclusion of such a city or town may be initiated by the adoption of an ordinance by the legislative authority thereof stating its intent to join the library district and finding that the public interest will be served thereby. Before adoption, the ordinance shall be submitted to the library board of the city or town for its review and recommendations. If no library board exists in the city or town, the state librarian shall be notified of the proposed ordinance. If the board of trustees of the library district concurs in the annexation, notification thereof shall be transmitted to the legislative authority or authorities of the counties in which the city or town is situated. [1982 c 123 § 13; 1981 c 26 § 3; 1977 ex.s. c 353 § 1.]

27.12.370 Annexation of city or town into library district—Special election procedure. The county legislative authority or authorities shall by resolution call a special election to be held in such city or town at the next date provided in RCW 29.13.010 but not less than forty-five days from the date of the declaration of such finding, and shall cause notice of such election to be given as provided for in RCW 29.27.080.

The election on the annexation of the city or town into the library district shall be conducted by the auditor of the county or counties in which the city or town is located in accordance with the general election laws of the state and the results thereof shall be canvassed by the canvassing board of the county or counties. No person shall be entitled to vote at such election unless he or she is registered to vote in said city or town for at least thirty days preceding the date of the election. The ballot proposition shall be in substantially the following form:

"Shall the city or town of be annexed to and be a part of library district?"

YES
NO

If a majority of the persons voting on the proposition shall vote in favor thereof, the city or town shall thereupon be annexed and shall be a part of such library district. [1982 c 123 § 14; 1977 ex.s. c 353 § 2.]

27.12.380 Annexation of city or town into library district—Withdrawal of annexed city or town. The legislative body of such a city or town which has annexed to such a library district, may, by resolution, present to the voters of such city or town a proposition to withdraw from said library district at any general election held at least three years following the annexation to the library district. [1982 c 123 § 15; 1977 ex.s. c 353 § 3.]

27.12.390 Annexation of city or town into library district—Tax levies. The annual tax levy authorized by RCW 27.12.050, 27.12.150, and 27.12.420 shall be imposed throughout the library district, including any city or town annexed thereto. Any city or town annexed to a rural library district, island library district, or inter-county rural library district shall be entitled to levy up to three dollars and sixty cents per thousand dollars of assessed valuation less any regular levy made by such library district in the incorporated area, notwithstanding any other provision of law: PROVIDED, That the limitations upon regular property taxes imposed by chapter 84.55 RCW shall apply. [1982 c 123 § 16; 1977 ex.s. c 353 § 4.]

27.12.395 Annexation of city or town into library district—Assumption of liabilities. (1) All liabilities of a city or town that is annexed to a rural county library district or inter-county rural library district, which liabilities were incurred for the purpose of or in the course of acquiring, operating, or maintaining a library or libraries, may, if provided for in the ordinance providing for annexation and in the resolution of the district consenting to annexation, pass to and be assumed by the rural county library district or inter-county rural library district. Notwithstanding the

foregoing, if the city or town has incurred any voted bonded indebtedness for the purpose of acquiring, operating, or maintaining a library or libraries, and if the indebtedness is outstanding at the time of the annexation, the voted bonded indebtedness shall not be assumed by the annexing district.

(2) Notwithstanding subsection (1) of this section, if the annexed city or town has outstanding at the time of the annexation any voted bonded indebtedness incurred for the purpose of acquiring, operating, or maintaining a library or libraries, a special election may be called by the board of trustees of the rural county library district or intercounty rural library district, to be held at the next general or special election held in the applicable county or counties, for the purpose of affording the voters residing within the area of the district outside the annexed city or town an opportunity to assume the voted bonded indebtedness of the annexed city or town upon the assent of three-fifths of the voters. [1985 c 392 § 1.]

27.12.400 Island library districts—Establishment—Procedure. The procedure for the establishment of an island library district shall be as follows:

(1) Petitions signed by at least ten percent of the registered voters of the island, outside of the area of incorporated cities and towns, asking that the question, "Shall an island library district be established?" be submitted to a vote of the people of the island, shall be filed with the board of county commissioners.

(2) The board of county commissioners, after having determined that the petitions were signed by the requisite number of qualified petitioners, shall place the proposition for the establishment of an island library district on the ballot for the vote of the people of the island, outside incorporated cities and towns, at the next succeeding general or special election.

(3) If a majority of those voting on the proposition vote in favor of the establishment of the island library district, the board of county commissioners shall forthwith declare it established. [1982 c 123 § 2.]

27.12.410 Island library districts—Restrictions on establishment. An island library district may not be established if there is in existence a library district serving all of the area of the county not included within the area of incorporated cities and towns. [1982 c 123 § 3.]

27.12.420 Island library districts—Board of trustees—Tax levies. Immediately following the establishment of an island library district, the board of county commissioners shall appoint a board of library trustees for the district in accordance with RCW 27.12.190. The board of trustees shall appoint a librarian for the district.

Funds for the establishment and maintenance of the library service of the district shall be provided by the board of county commissioners by means of an annual tax levy on the property in the district of not more than fifty cents per thousand dollars of assessed value per year. The tax levy shall be based on a budget to be compiled by the board of trustees of the island library district who shall determine the tax rate necessary and certify their determination to the board of county commissioners.

Excess levies authorized pursuant to RCW 27.12.222, 84.52.052, or 84.52.056 shall be at a rate determined by the board of trustees of the island library district and certified to the board of county commissioners. [1982 c 123 § 4.]

27.12.430 Island library districts—Name may be adopted. The board of trustees of an island library district may adopt a name by which the district shall be known and under which it shall transact all of its business. [1982 c 123 § 6.]

27.12.440 Island library districts—Powers and limitations for indebtedness. Except as otherwise specifically provided, island library districts and the trustees thereof shall have the same powers and limitations as are prescribed by RCW 27.12.060 through 27.12.070 for rural county library districts and shall follow the same procedures and be subject to the same limitations as are provided therein with respect to the contracting of indebtedness. [1982 c 123 § 5.]

27.12.450 Island library districts—Dissolution, when. If after an island library district serving a single island has been established, a rural county library district serving all of the area of the county not included within the area of incorporated cities and towns is established as provided in RCW 27.12.040, the district serving the single island in the county shall be dissolved. [1982 c 123 § 7.]

Dissolution of library districts: RCW 27.12.320.

Chapter 27.14

LIBRARY DISTRICT LOCAL IMPROVEMENT DISTRICTS

Sections

- 27.14.010 Definitions.
- 27.14.015 "Owner", "reputed owner"—Sufficiency of signatures.
- 27.14.020 Petition or resolution method authorized—Procedure—Assessments.
- 27.14.030 Resolution of intention—Publication—Notice to property owners.
- 27.14.035 Hearing—Boundaries—Protests—Divestment of jurisdiction—Powers and duties pursuant to finding for formation.
- 27.14.040 Subsequent proceedings to be in accordance with sewer district law.
- 27.14.050 Chapter may be used in conjunction with regional agreements.

Chapter 82.04 RCW on the business and occupation tax not to apply to certain materials printed in library district: RCW 82.04.600.

27.14.010 Definitions. As used in this chapter: "Library district" means a rural county library district, or intercounty rural library district. [1961 c 162 § 1.]

27.14.015 "Owner", "reputed owner"—Sufficiency of signatures. Whenever the terms "owner" or "reputed owner" of property are used in this chapter, such terms shall include the following:

(1) The signature of a record owner, as determined by the records of the county auditor, shall be sufficient without the signature of his or her spouse.

(2) In the case of mortgaged property, the signature of the mortgagor shall be sufficient.

(3) In the case of property purchased on contract, the signature of the contract purchaser, as shown by the records of the county auditor, shall be deemed sufficient.

(4) Any officer of a corporation owning land in the district duly authorized to execute deeds or encumbrances on behalf of the corporation may sign on behalf of such corporation, provided that there shall be attached to the petition a certified excerpt from the bylaws showing such authority.

(5) If any property in the district stands in the name of a deceased person or any person for whom a guardian has been appointed the signature of the executor, administrator or guardian, as the case may be, shall be equivalent to the signature of the owner of the property. [1963 c 80 § 5.]

27.14.020 Petition or resolution method authorized—Procedure—Assessments. In any instance where the acquisition of land, buildings or capital equipment, or the construction of library buildings are of special benefit to part or all of the lands in the district, the governing board of the library district shall have authority to include such lands in a local improvement district, and to levy special assessments under a mode of annual installments extending over a period not exceeding twenty years on all property specially benefited by any local improvement, on the basis of the special benefits to pay in whole or in part the damages or costs of any such improvements ordered in such library district. For the purposes of this chapter, the duties devolving upon the city treasurer under said laws are imposed upon the county treasurer serving the library district. Such local improvement districts may be initiated either by resolution of the governing board of the library district or by petition signed by the owners, according to the records of the office of the county auditor, of at least fifty-one percent of the area of the land within the local improvement district to be created excluding all federally owned or other nonassessable property.

In case the governing board of the library district shall desire to initiate the formation of a local improvement district by resolution, it shall first pass a resolution declaring its intention to order such improvement, setting forth the nature and territorial extent of such proposed improvement, designating the number of the proposed district, describing the boundaries thereof, stating the estimated cost and expenses of the improvement and the proportionate amount thereof which will be borne by the property within the proposed district, and fixing a date, time and place for a public hearing on the formation of the proposed district.

In case any such local improvement district shall be initiated by petition, such petition shall set forth the nature and territorial extent of such proposed improvement and the fact that the signers thereof are the owners according to the records of the county auditor of at least fifty-one percent of the area of land within the limits of the local improvement district to be created excluding all federally owned or other nonassessable property. Upon the filing of such petition with the secretary of the board of trustees of the library district, the board shall determine whether the same shall be sufficient, and the board's determination thereof shall be

conclusive upon all persons. No person shall withdraw his name from said petition after the filing thereof with the secretary of the board of trustees. If the board shall find the petition to be sufficient, it shall proceed to adopt a resolution declaring its intention to order the improvement petitioned for, setting forth the nature and territorial extent of said improvement, designating the number of the proposed local districts describing the boundaries thereof, stating the estimated cost and expense of the improvement and the proportionate amount thereof which will be borne by the property within the proposed local district, and fixing a date, time and place for a public hearing on the formation of the proposed local district. [1963 c 80 § 1; 1961 c 162 § 2.]

27.14.030 Resolution of intention—Publication—Notice to property owners. The resolution of intention, whether adopted on the initiative of the board or pursuant to a petition of the property owners, shall be published in at least two consecutive issues of a newspaper of general circulation in the proposed local district, the date of the first publication to be at least fifteen days prior to the date fixed by such resolution for hearing before the board of library trustees. Notice of the adoption of the resolution of intention shall be given each owner or reputed owner of any lot, tract, parcel of land or other property within the proposed improvement district by mailing said notice at least fifteen days before the date fixed for the public hearing to the owner or reputed owner of the property as shown on the tax rolls of the county treasurer at the address shown thereon. The notice shall refer to the resolution of intention and designate the proposed improvement district by number. Said notice shall also set forth the nature of the proposed improvement, the total estimated cost, the proportion of total cost to be borne by assessment, the estimated amount of the cost and expense of such improvement to be borne by the particular lot, tract or parcel, the date, time and place of the hearing before the board of library trustees; and in the case of improvements initiated by resolution, said notice shall also state that all persons desiring to object to the formation of the proposed district must file their written protests with the secretary of the board of library trustees within three weeks of the date said notice is mailed. [1963 c 80 § 2; 1961 c 162 § 3.]

27.14.035 Hearing—Boundaries—Protests—Divestment of jurisdiction—Powers and duties pursuant to finding for formation. Whether the improvement is initiated by petition or resolution, the board shall conduct a public hearing at the time and place designated in the notice to property owners. At this hearing the board shall hear objections from any person affected by the formation of the local district and may make such changes in the boundaries of the district or such modifications in plans for the proposed improvement as shall be deemed necessary: PROVIDED, That the board may not change the boundaries of the district to include property not previously included therein without first passing a new resolution of intention and giving a new notice to property owners in the manner and form and within the time herein provided for the original notice.

After said hearing the board shall have jurisdiction to overrule protests and proceed with any such improvement

initiated by petition or resolution: PROVIDED, That the jurisdiction of the board to proceed with any improvement initiated by resolution shall be divested by protests filed with the secretary of the board pursuant to RCW 27.14.030, signed by the owners, according to the records of the county auditor, of at least forty percent of the area of land within the proposed local district, excluding all federally owned or other nonassessable property.

If the board finds that the district should be formed, they shall by resolution order the improvement, provide the general funds of the district to be applied thereto, adopt detailed plans of the local improvement district and declare the estimated cost thereof, acquire all necessary land therefor, pay all damages caused thereby, and commence in the name of the district such eminent domain proceedings and supplemental assessment or reassessment proceedings to pay all eminent domain awards as may be necessary to entitle the district to proceed with the work. The board shall proceed with the work and file with the county treasurer its roll levying special assessments in the amount to be paid by special assessment against the property situated within the local improvement district in proportion to the special benefits to be derived by the property therein from the improvement. [1963 c 80 § 3.]

27.14.040 Subsequent proceedings to be in accordance with sewer district law. All subsequent proceedings in connection with the local improvement, including but not limited to the levying, collection and enforcement of local improvement assessments, shall be in accordance with the provisions of law applicable to sewer district local improvement district improvements set forth in chapter 56.20 RCW, and references therein to the board of sewer commissioners and secretary of the board of sewer commissioners shall be deemed references to the governing board of the library district and secretary of the governing board of the library district. [1963 c 80 § 4; 1961 c 162 § 4.]

27.14.050 Chapter may be used in conjunction with regional agreements. Library districts may use the provisions of this chapter for library district purposes alone or in conjunction with regional library agreements. [1961 c 162 § 5.]

Chapter 27.18

INTERSTATE LIBRARY COMPACT

Sections

- 27.18.010 Definitions.
- 27.18.020 Compact enacted—Provisions.
- 27.18.030 Compact administrator—Deputies—Library agreements, submittal.
- 27.18.040 Compliance with tax and bonding laws enjoined.
- 27.18.050 Withdrawal—Compact administrator to send and receive notices.

27.18.010 Definitions. As used in this chapter, except where the context otherwise requires:

- (1) "Compact" means the interstate library compact.
- (2) "Public library agency", with reference to this state, means the state library and any county or city library or any

regional library, rural county library district library, island library district library, or intercounty rural library district library.

(3) "State library agency", with reference to this state, means the commissioners of the state library. [1982 c 123 § 17; 1965 ex.s. c 93 § 1.]

27.18.020 Compact enacted—Provisions. The interstate library compact hereby is enacted into law and entered into by this state with all states legally joining therein in the form substantially as follows:

INTERSTATE LIBRARY COMPACT

ARTICLE I. POLICY AND PURPOSE

Because the desire for the services provided by libraries transcends governmental boundaries and can most effectively be satisfied by giving such services to communities and people regardless of jurisdictional lines, it is the policy of the states party to this compact to cooperate and share their responsibilities; to authorize cooperation and sharing with respect to those types of library facilities and services which can be more economically or efficiently developed and maintained on a cooperative basis; and to authorize cooperation and sharing among localities, states and others in providing joint or cooperative library services in areas where the distribution of population or of existing and potential library resources make the provision of library service on an interstate basis the most effective way of providing adequate and efficient service.

ARTICLE II. DEFINITIONS

As used in this compact:

- (a) "Public library agency" means any unit or agency of local or state government operating or having power to operate a library.
- (b) "Private library agency" means any nongovernmental entity which operates or assumes a legal obligation to operate a library.
- (c) "Library agreement" means a contract establishing an interstate library district pursuant to this compact or providing for the joint or cooperative furnishing of library services.

ARTICLE III. INTERSTATE LIBRARY DISTRICTS

(a) Any one or more public library agencies in a party state in cooperation with any public library agency or agencies in one or more other party states may establish and maintain an interstate library district. Subject to the provisions of this compact and any other laws of the party states which pursuant hereto remain applicable, such district may establish, maintain and operate some or all of the library facilities and services for the area concerned in accordance with the terms of a library agreement therefor. Any private library agency or agencies within an interstate library district may cooperate therewith, assume duties, responsibilities and obligations thereto, and receive benefits therefrom as provided in any library agreement to which such agency or agencies become party.

(b) Within an interstate library district, and as provided by a library agreement, the performance of library functions may be undertaken on a joint or cooperative basis or may be undertaken by means of one or more arrangements between

or among public or private library agencies for the extension of library privileges to the use of facilities or services operated or rendered by one or more of the individual library agencies.

(c) If a library agreement provides for joint establishment, maintenance or operation of library facilities or services by an interstate library district, such district shall have power to do any one or more of the following in accordance with such library agreement:

1. Undertake, administer and participate in programs or arrangements for securing, lending or servicing books and other publications, any other materials suitable to be kept or made available by libraries, library equipment or for the dissemination of information about libraries, the value and significance of particular items therein, and the use thereof.

2. Accept for any of its purposes under this compact any and all donations, and grants of money, equipment, supplies, materials, and services, (conditional or otherwise), from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm or corporation, and receive, utilize and dispose of the same.

3. Operate mobile library units or equipment for the purpose of rendering bookmobile service within the district.

4. Employ professional, technical, clerical and other personnel, and fix terms of employment, compensation and other appropriate benefits; and where desirable, provide for the inservice training of such personnel.

5. Sue and be sued in any court of competent jurisdiction.

6. Acquire, hold, and dispose of any real or personal property or any interest or interests therein as may be appropriate to the rendering of library service.

7. Construct, maintain and operate a library, including any appropriate branches thereof.

8. Do such other things as may be incidental to or appropriate for the carrying out of any of the foregoing powers.

ARTICLE IV. INTERSTATE LIBRARY DISTRICTS, GOVERNING BOARD

(a) An interstate library district which establishes, maintains or operates any facilities or services in its own right shall have a governing board which shall direct the affairs of the district and act for it in all matters relating to its business. Each participating public library agency in the district shall be represented on the governing board which shall be organized and conduct its business in accordance with provision therefor in the library agreement. But in no event shall a governing board meet less often than twice a year.

(b) Any private library agency or agencies party to a library agreement establishing an interstate library district may be represented on or advise with the governing board of the district in such manner as the library agreement may provide.

ARTICLE V. STATE LIBRARY AGENCY COOPERATION

Any two or more state library agencies of two or more of the party states may undertake and conduct joint or cooperative library programs, render joint or cooperative library services, and enter into and perform arrangements for

the cooperative or joint acquisition, use, housing and disposition of items or collections of materials which, by reason of expense, rarity, specialized nature, or infrequency of demand therefor would be appropriate for central collection and shared use. Any such programs, services or arrangements may include provision for the exercise on a cooperative or joint basis of any power exercisable by an interstate library district and an agreement embodying any such program, service or arrangement shall contain provisions covering the subjects detailed in Article VI of this compact for interstate library agreements.

ARTICLE VI. LIBRARY AGREEMENTS

(a) In order to provide for any joint or cooperative undertaking pursuant to this compact, public and private library agencies may enter into library agreements. Any agreement executed pursuant to the provisions of this compact shall, as among the parties to the agreement:

1. Detail the specific nature of the services, programs, facilities, arrangements or properties to which it is applicable.

2. Provide for the allocation of costs and other financial responsibilities.

3. Specify the respective rights, duties, obligations and liabilities of the parties.

4. Set forth the terms and conditions for duration, renewal, termination, abrogation, disposal of joint or common property, if any, and all other matters which may be appropriate to the proper effectuation and performance of the agreement.

(b) No public or private library agency shall undertake to exercise itself, or jointly with any other library agency, by means of a library agreement any power prohibited to such agency by the constitution or statutes of its state.

(c) No library agreement shall become effective until filed with the compact administrator of each state involved, and approved in accordance with Article VII of this compact.

ARTICLE VII. APPROVAL OF LIBRARY AGREEMENTS

(a) Every library agreement made pursuant to this compact shall, prior to and as a condition precedent to its entry into force, be submitted to the attorney general of each state in which a public library agency party thereto is situated, who shall determine whether the agreement is in proper form and compatible with the laws of his state. The attorneys general shall approve any agreement submitted to them unless they shall find that it does not meet the conditions set forth herein and shall detail in writing addressed to the governing bodies of the public library agencies concerned the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder within ninety days of its submission shall constitute approval thereof.

(b) In the event that a library agreement made pursuant to this compact shall deal in whole or in part with the provision of services or facilities with regard to which an officer or agency of the state government has constitutional or statutory powers of control, the agreement shall, as a condition precedent to its entry into force, be submitted to the state officer or agency having such power of control and shall be approved or disapproved by him or it as to all

matters within his or its jurisdiction in the same manner and subject to the same requirements governing the action of the attorneys general pursuant to paragraph (a) of this article. This requirement of submission and approval shall be in addition to and not in substitution for the requirement of submission to and approval by the attorneys general.

ARTICLE VIII. OTHER LAWS APPLICABLE

Nothing in this compact or in any library agreement shall be construed to supersede, alter or otherwise impair any obligation imposed on any library by otherwise applicable law, nor to authorize the transfer or disposition of any property held in trust by a library agency in a manner contrary to the terms of such trust.

ARTICLE IX. APPROPRIATIONS AND AID

(a) Any public library agency party to a library agreement may appropriate funds to the interstate library district established thereby in the same manner and to the same extent as to a library wholly maintained by it and, subject to the laws of the state in which such public library agency is situated, may pledge its credit in support of an interstate library district established by the agreement.

(b) Subject to the provisions of the library agreement pursuant to which it functions and the laws of the states in which such district is situated, an interstate library district may claim and receive any state and federal aid which may be available to library agencies.

ARTICLE X. COMPACT ADMINISTRATOR

Each state shall designate a compact administrator with whom copies of all library agreements to which his state or any public library agency thereof is party shall be filed. The administrator shall have such other powers as may be conferred upon him by the laws of his state and may consult and cooperate with the compact administrators of other party states and take such steps as may effectuate the purposes of this compact. If the laws of a party state so provide, such state may designate one or more deputy compact administrators in addition to its compact administrator.

ARTICLE XI. ENTRY INTO FORCE AND WITHDRAWAL

(a) This compact shall enter into force and effect immediately upon its enactment into law by any two states. Thereafter, it shall enter into force and effect as to any other state upon the enactment thereof by such state.

(b) This compact shall continue in force with respect to a party state and remain binding upon such state until six months after such state has given notice to each other party state of the repeal thereof. Such withdrawal shall not be construed to relieve any party to a library agreement entered into pursuant to this compact from any obligation of that agreement prior to the end of its duration as provided therein.

ARTICLE XII. CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the

United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. [1965 ex.s. c 93 § 2.]

27.18.030 Compact administrator—Deputies—Library agreements, submittal. The state librarian shall be the compact administrator pursuant to Article X of the compact. The state librarian shall appoint one or more deputy compact administrators. Every library agreement made pursuant to Article VI of the compact shall, as a condition precedent to its entry into force, be submitted to the state librarian for his recommendations. [1965 ex.s. c 93 § 3.]

27.18.040 Compliance with tax and bonding laws enjoined. No regional library, county library, rural county library district library, island library district library, inter-county rural library district library, or city library of this state shall be a party to a library agreement which provides for the construction or maintenance of a library pursuant to Article III, subdivision (c-7) of the compact, nor levy a tax or issue bonds to contribute to the construction or maintenance of such a library, except after compliance with any laws applicable to regional libraries, county libraries, rural county library district libraries, island library district libraries, inter-county rural library district libraries, or city libraries relating to or governing the levying of taxes or the issuance of bonds. [1982 c 123 § 18; 1965 ex.s. c 93 § 4.]

27.18.050 Withdrawal—Compact administrator to send and receive notices. In the event of withdrawal from the compact the compact administrator shall send and receive any notices required by Article XI(b) of the compact. [1965 ex.s. c 93 § 5.]

**Chapter 27.20
STATE LAW LIBRARY**

Sections

- 27.20.030 Library part of judicial branch.
- 27.20.040 State law librarian and assistants—Appointment, tenure, compensation.
- 27.20.050 Duties of law librarian.

27.20.030 Library part of judicial branch. The state law library shall be a part of the judicial branch of state government and shall be under the exclusive jurisdiction and control of the supreme court. [1959 c 188 § 1.]

Committee abolished: "The state law library committee is hereby abolished." [1959 c 188 § 5.] Provisions relating to the state law library committee were formerly codified in chapter 43.36 RCW but were repealed by 1959 c 188 § 6.

27.20.040 State law librarian and assistants—Appointment, tenure, compensation. The supreme court

shall appoint a state law librarian, who may be removed at its pleasure. The librarian shall receive such compensation only as shall be fixed by the court.

The court may also appoint and fix the salaries of such assistants and clerical personnel as may be required. [1959 c 188 § 2.]

Rules of court: SAR 18.

27.20.050 Duties of law librarian. The duties of the state law librarian shall be as prescribed by statute and by rules of court. [1959 c 188 § 3.]

Duties of state law librarian relative to session laws, legislative journals and supreme court reports: Chapter 40.04 RCW.

Chapter 27.24 COUNTY LAW LIBRARIES

Sections

27.24.010	Establishment.
27.24.020	Board of trustees—Composition—Terms.
27.24.030	Powers of board.
27.24.040	Annual report.
27.24.062	Establishment of regional law libraries.
27.24.066	Library rooms.
27.24.067	Free use of library.
27.24.068	Establishment of county law library—Trustee—Free use of library.
27.24.070	Portion of filing fees for county or regional law library.
27.24.090	Discontinuance of fees.
27.24.900	Effective date—1992 c 62.

27.24.010 Establishment. Each county with a population of eight thousand or more shall have a county law library, which shall be governed and maintained as hereinafter provided. [1992 c 62 § 1; 1919 c 84 § 1; RRS § 8247.]

27.24.020 Board of trustees—Composition—Terms. (1) Every county with a population of three hundred thousand or more must have a board of law library trustees consisting of five members to be constituted as follows: The chairman of the county legislative authority is an ex officio trustee, the judges of the superior court of the county shall choose two of their number to be trustees, and the members of the county bar association shall choose two members of the bar of the county to be trustees.

(2) Every county with a population of eight thousand or more but less than three hundred thousand must have a board of law library trustees consisting of five members to be constituted as follows: The chairman of the county legislative authority is an ex officio trustee, the judges of the superior court of the county shall choose one of their number to be a trustee, and the members of the county bar association shall choose three members of the county to be trustees. If there is no county bar association, then the lawyers of the county shall choose three of their number to be trustees.

(3) If a county has a population of less than eight thousand, then the provisions contained in RCW 27.24.068 shall apply to the establishment and operation of the county law library.

(4) If a regional law library is created pursuant to RCW 27.24.062, then it shall be governed by one board of trustees.

The board shall consist of the following representatives from each county: The judges of the superior court of the county shall choose one of their number to be a trustee, the county legislative authority shall choose one of their number to be a trustee, and the members of the county bar association shall choose one member of the bar of the county to be a trustee. If there is no county bar association, then the lawyers of the county shall choose one of their number to be a trustee.

(5) The term of office of a member of the board who is a judge is for as long as he or she continues to be a judge, and the term of a member who is from the bar is four years. Vacancies shall be filled as they occur and in the manner directed in this section. The office of trustee shall be without salary or other compensation. The board shall elect one of their number president and the librarian shall act as secretary, except that in counties with a population of eight thousand or more but less than three hundred thousand, the board shall elect one of their number to act as secretary if no librarian is appointed. Meetings shall be held at least once per year, and if more often, then at such times as may be prescribed by rule. [1992 c 62 § 2; 1919 c 84 § 2; RRS § 8248.]

27.24.030 Powers of board. The board of law library trustees shall have power:

(1) To make and enforce rules for their own procedure and for the government, care and use of the library, and for the guidance of employees.

(2) To remove any trustee, except an ex officio trustee, for neglect to attend the meetings of the board.

(3) To employ a librarian and assistants and to prescribe their duties, fix their compensation and remove them at will.

(4) To purchase books, periodicals and other property suitable for the library and to accept gifts and bequests of money and property for the library, and to sell property which is unsuitable or not needed for the library.

(5) To examine and approve for payment claims and demands payable out of the county law library fund. [1919 c 84 § 3; RRS § 8249.]

27.24.040 Annual report. The board of law library trustees shall, on or before the first Monday in September of each year, make a report to the county legislative authority of their county giving the condition of their trust, with a full statement of all property received and how used, the number of books and other publications on hand, the number added by purchase, gift or otherwise during the preceding year, the number lost or missing, and such other information as may be of public interest, together with a financial report showing all receipts and disbursements of money. [1992 c 62 § 3; 1919 c 84 § 4; RRS § 8250.]

27.24.062 Establishment of regional law libraries. Two or more counties each with a population of from eight thousand to less than one hundred twenty-five thousand may, by agreement of the respective law library boards of trustees, create a regional law library and establish and maintain one principal law library at such location as the regional board of trustees may determine will best suit the needs of the users: PROVIDED, HOWEVER, That there shall be at all

times a law library in such size as the board of trustees may determine necessary to be located at the courthouse where each superior court is located. [1992 c 62 § 4; 1991 c 363 § 18; 1971 ex.s. c 141 § 1; 1943 c 195 § 1; 1933 c 167 § 1; 1925 ex.s. c 94 § 1; Rem. Supp. 1943 § 8254-1.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

27.24.066 Library rooms and service. The county legislative authority of each county that is required to maintain a county law library shall upon demand by the board of law library trustees, provide a room suitable for the law library, with adequate heat, light, and janitor service. [1992 c 62 § 5; 1933 c 167 § 3, part; RRS § 8254-7.]

27.24.067 Free use of library. The use of the county law library shall be free to the judges of the state, to state and county officials, and to members of the bar, and to such others as the board of trustees may by rule provide. Residents of counties with a population of three hundred thousand or more shall have free use of the law library. [1992 c 62 § 6; 1933 c 167 § 3, part; RRS § 8254-8.]

27.24.068 Establishment of county law library—Trustee—Free use of library. In each county with a population of less than eight thousand, there may be a county law library which shall be governed and maintained by the prosecuting attorney who shall also serve as trustee of such library without additional salary or other compensation.

The use of the county law library shall be free to the judges of the state, to state and county officials, and to members of the bar, and to such others as the prosecuting attorney may by rule provide. [1991 c 363 § 19; 1975 c 37 § 1.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

27.24.070 Portion of filing fees for county or regional law library. In each county pursuant to this chapter, the county treasurer shall deposit in the county or regional law library fund a sum equal to twelve dollars for every new probate or civil filing fee, including appeals, collected by the clerk of the superior court and six dollars for every fee collected for the commencement of a civil action in district court for the support of the law library in that county or the regional law library to which the county belongs: PROVIDED, That upon a showing of need the twelve dollar contribution may be increased up to fifteen dollars upon the request of the law library board of trustees and with the approval of the county legislative body or bodies. [1992 c 54 § 6; 1985 c 389 § 2; 1984 c 258 § 310; 1979 c 126 § 1; 1971 ex.s. c 141 § 3; 1969 c 25 § 2; 1961 c 304 § 9; 1957 c 31 § 1; 1953 c 249 § 1. Prior: (i) 1937 c 32 § 1, part; 1919 c 84 § 8, part; RRS § 8254, part. (ii) 1933 c 167 § 2, part; 1925 ex.s. c 94 § 3, part; RRS § 8254-3, part. (iii) 1943 c 195 § 2; Rem. Supp. 1943 § 8254-9.]

Effective date—1992 c 54: See note following RCW 36.18.020.

Effective date—1985 c 389: "Sections 2 through 9 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 July 1, 1985." [1985 c 389 § 10.]

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

Intent—1984 c 258: See note following RCW 3.46.120.

County clerk's fees: RCW 36.18.020.

District courts, filing fees in civil cases: RCW 3.62.060.

27.24.090 Discontinuance of fees. The collection of the fees directed in RCW 27.24.070 shall be discontinued whenever the board of trustees of a county library or the prosecuting attorney, as the case may be, files with the county clerk and clerks of the district courts a written resolution to the effect that the county library fund in its county is sufficient for all present needs, which resolution shall remain effective until it is later rescinded. Upon its rescission, the county clerk and clerks of the district courts shall resume the collection of such fees. [1987 c 202 § 188; 1975 c 37 § 2; 1953 c 249 § 3; 1933 c 167 § 2, part; 1925 ex.s. c 94 § 3, part; RRS § 8254-3, part.]

Intent—1987 c 202: See note following RCW 2.04.190.

27.24.900 Effective date—1992 c 62. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect April 1, 1992. [1992 c 62 § 10.]

Chapter 27.26

WESTERN LIBRARY NETWORK

(Formerly: Washington library network)

Sections

27.26.010	Definitions.
27.26.020	Network established.
27.26.030	Western library network computer system revolving fund— Creation—Use.
27.26.040	Schedule of user fees.
27.26.050	Expenses related to promotion of products and services.
27.26.060	Contracts for promotion of network—Licenses for software.
27.26.070	Authority to establish private, nonprofit corporation— Termination of network services.
27.26.080	Establishment of successor organization—State not liable for successor organization.
27.26.090	Property, funds, and contracts not transferred to successor agency.
27.26.900	Severability—1989 c 96.
27.26.901	Effective date—1989 c 96.
27.26.950	Termination of network.
27.26.951	Repeal.

27.26.010 Definitions. (Effective until June 30, 1997.) As used in this chapter, unless otherwise required by the context, the following definitions shall apply:

(1) "Western library network computer system" means the communication facilities, computers, and peripheral computer devices supporting the automated library system developed by the state of Washington;

(2) "Network" means the western library network which is an organization of autonomous, geographically dispersed participants using the western library network computer system, telecommunications systems, interlibrary systems, and reference and referral systems;

(3) "Resources" are library materials which include but are not limited to print, nonprint (e.g., audiovisual, realia, etc.), and microform formats; network resources such as

software, hardware, and equipment; electronic and magnetic records; data bases; communication technology; facilities; and human expertise;

(4) "Telecommunications" includes any point to point transmission, emission, or reception of signs, signals, writing, images, and sounds or intelligence of any nature by wire, radio, microwave radio, optical, or other electromagnetic system, including any intervening processing and storage serving a point to point system;

(5) "Interlibrary loan system" means the accepted procedures among libraries by which library materials are made available in some format to users of another library;

(6) "Reference and referral system" pertains to procedures among libraries whereby subject or fact-oriented queries may be referred to another institution when the answering resource or subject expertise is unavailable in the institution originally queried;

(7) "Successor organization" means a private, nonprofit corporation created specifically to assume responsibility for providing the services now being provided by the western library network under this chapter. Any such private, nonprofit corporation shall qualify as a tax-exempt, nonprofit corporation under section 501(C) of the federal internal revenue code; shall include on its board of directors a majority of representation by public sector libraries or other public agencies; and shall agree to provide access to a bibliographic data base and related service to network users. If no such corporation exists, which is capable, in the commission's opinion, of adequately assuming the network's operations, then another governmental entity, an organization created under the interlocal cooperation act, chapter 39.34 RCW, or a corporation currently providing automated bibliographic, telecommunications, computer network, or equivalent services to libraries in the state of Washington shall be the successor organization;

(8) "Commission" means the Washington state library commission. [1989 c 96 § 2; 1985 c 21 § 1; 1975-'76 2nd ex.s. c 31 § 2.]

Findings—1989 c 96: "The legislature finds that automated bibliographic, computer-based telecommunications, interlibrary, reference, and referral systems and related library services have proven to be a benefit to the citizens of the state of Washington; that these services have been provided through a network of public and private information providers both inside and outside the state; that the current governance structure of the network restricts the ability of the network to meet the needs of the library community and the citizens of Washington; that changes in the governance structure will result in increased efficiency, economy, and effectiveness of the network, in preserving the technology developed by the network, and in serving the library community and the citizens of Washington better; that the network now requires a new governance structure that allows the necessary operational flexibility in order to foster the continued availability of the benefits of the network to the citizens of Washington; and that the operation of the network as a private, nonprofit corporation is the best method to achieve these goals." [1989 c 96 § 1.]

Effective date—1985 c 21: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1985." [1985 c 21 § 11.]

27.26.020 Network established. (Effective until June 30, 1997.) There is hereby established the western library network, hereinafter called the network, which shall consist of the western library network computer system, telecommunications systems, interlibrary systems, and reference and referral systems.

Responsibility for the network shall reside with the Washington state library commission. The commission shall adopt and promulgate policies, rules, and regulations consistent with the purposes and provisions of this chapter pursuant to chapter 34.05 RCW, the administrative procedure act, except that nothing in this chapter shall abrogate the authority of a participating library, institution, or organization to establish its own policies for collection development and use of its library resources. [1987 c 504 § 13; 1985 c 21 § 2; 1975-'76 2nd ex.s. c 31 § 1.]

Severability—Effective date—1987 c 504: See RCW 43.105.901 and 43.105.902.

Effective date—1985 c 21: See note following RCW 27.26.010.

27.26.030 Western library network computer system revolving fund—Creation—Use. (Effective until June 30, 1997.) There is hereby created a fund within the state treasury to be known as the "western library network computer system revolving fund" referred to as the "fund."

The fund shall be credited with all receipts from the rental, sale, or distribution of supplies, equipment, computer software, products, and services rendered to users and licensees of the western library network computer system. All gifts, grants, donations, and other moneys received by the network shall be deposited in the fund. All expenditures from the fund shall be authorized by law. [1987 c 389 § 4; 1985 c 21 § 4; 1975-'76 2nd ex.s. c 110 § 2. Formerly RCW 43.105.110.]

Severability—Effective date—1987 c 389: See notes following RCW 41.06.070.

Effective date—1985 c 21: See note following RCW 27.26.010.

Effective date—1975-'76 2nd ex.s. c 110: "This act shall take effect on July 1, 1977." [1975-'76 2nd ex.s. c 110 § 6.]

27.26.040 Schedule of user fees. (Effective until June 30, 1997.) The state library commission shall develop a schedule of user fees for users of the western library network computer system and a schedule of charges for the network's products and licenses for the purpose of distributing and apportioning to such users, buyers, and licensees the full cost of operation and continued development of data processing and data communication services related to the network. Such schedule shall generate sufficient revenue to cover the costs relating to the library network of:

(1) The payment of salaries, wages, and other costs including but not limited to the acquisition, operation, and administration of acquired information services, supplies, and equipment; and

(2) The promotion of network products and services.

As used in this section, the term "supplies" shall not be interpreted to delegate or abrogate the state purchasing and material control director's responsibilities and authority to purchase supplies as provided for in chapter 43.19 RCW. [1987 c 504 § 12; 1985 c 21 § 6; 1975-'76 2nd ex.s. c 110 § 4. Formerly RCW 43.105.130.]

Severability—Effective date—1987 c 504: See RCW 43.105.901 and 43.105.902.

Effective date—1985 c 21: See note following RCW 27.26.010.

Effective date—1975-'76 2nd ex.s. c 110: See note following RCW 27.26.030.

27.26.050 Expenses related to promotion of products and services. (Effective until June 30, 1997.) The western library network may incur reasonable expenses directly related to the promotion of network products and services, including travel expenses, promotional publications, and exhibits. [1985 c 21 § 7. Formerly RCW 43.105.140.]

Effective date—1985 c 21: See note following RCW 27.26.010.

27.26.060 Contracts for promotion of network—Licenses for software. (Effective until June 30, 1997.) The western library network may enter into contracts with public or private vendors for a portion or portions of the promotion of the network when cost-effective or otherwise in the best interest of the users and may provide for the issuance of licenses for network software. [1985 c 21 § 8. Formerly RCW 43.105.150.]

Effective date—1985 c 21: See note following RCW 27.26.010.

27.26.070 Authority to establish private, nonprofit corporation—Termination of network services. (Effective until June 30, 1997.) (1) The commission may cooperate with other agencies both inside and outside the state of Washington to establish a private, nonprofit corporation for the purpose of providing automated bibliographic, computer-based telecommunications, interlibrary, reference, and referral systems, computer network services, and related library services that are equivalent to the services provided by the western library network on June 1, 1989. The commission may adopt policies and rules consistent with the purposes and provisions of RCW 27.26.070 through 27.26.090 and section 11, chapter 96, Laws of 1989 and RCW 42.18.221 pursuant to the administrative procedure act.

(2) The commission may terminate the services provided by the western library network before June 30, 1997, if a successor organization agrees to assume full responsibility for providing services that are equivalent to the services provided by the western library network on June 1, 1989, to the state library, other agencies of state and local government, and other users of the western library network. The commission may not terminate western library network services within six months after June 1, 1989. The commission may not enter into a contract with a successor organization for the delivery of network services after five and one-half years from June 1, 1989. [1989 c 96 § 3.]

Annual report—1989 c 96: "The commission shall submit an annual report on the status of the establishment of a successor organization to the appropriate committees of the senate and house of representatives, no later than January 1 of each year, with a final report to be submitted no later than January 1, 1998." [1989 c 96 § 12.]

Findings—1989 c 96: See note following RCW 27.26.010.

27.26.080 Establishment of successor organization—State not liable for successor organization. (Effective until June 30, 1997.) In order to accomplish the establishment of a successor organization, the commission may take all necessary and proper steps, including:

(1) Transfer any equipment, software, data base, other assets, or contracts for services to the successor organization under appropriate terms and conditions, including reasonable compensation deemed appropriate by the commission. However, the commission shall retain the right to repossess any such property transferred for a period of up to five

years, in the event that the successor organization becomes bankrupt, insolvent, or is otherwise unable to provide network services that are satisfactory to a majority of the network users, or if the successor organization fails to comply with the provisions of any contract with the commission during the five-year period. In the event that the commission exercises its right to repossess under this section, any such property returned to the commission shall become the property of the state of Washington and shall be administered by the commission. If such a repossession occurs, the commission may provide western library network services;

(2) Unless otherwise provided by agreement, assign any membership agreements, software contracts, and other duties and responsibilities to the successor organization that are related to the western library network;

(3) Provide for personnel services by western library network employees, or other necessary support services to the successor organization under contract for up to a two-year period after the effective date of a contract between a successor organization and the commission for delivery of network services. The successor organization shall provide full reimbursement for all costs of services contracted for under this provision;

(4) Pay an annual membership fee to the successor organization not to exceed the value of services received; and

(5) Designate one or more persons to serve in the capacity of a member of the board of directors of a successor organization. The state shall not be liable for either the actions of the director in that capacity, nor for the actions of the successor organization. [1989 c 96 § 4.]

Findings—1989 c 96: See note following RCW 27.26.010.

27.26.090 Property, funds, and contracts not transferred to successor agency. (Effective until June 30, 1997.) At the time western library network services are terminated by the commission pursuant to RCW 27.26.070(2):

(1) Any supplies, equipment, or other property, whether tangible or intangible, not transferred to the successor organization shall remain the property of the state of Washington and shall be administered by the commission;

(2) Any funds remaining in the western library network computer system revolving fund shall be used by the commission to meet outstanding obligations of the network not transferred to the successor organization. At such time as all such obligations have been fulfilled, any remaining funds shall be transferred to the general fund;

(3) Any contracts or other obligations of the western library network not transferred to the successor organization shall be the obligation of the Washington state library. [1989 c 96 § 5.]

Findings—1989 c 96: See note following RCW 27.26.010.

27.26.900 Severability—1989 c 96. 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. [1989 c 96 § 13.]

27.26.901 Effective date—1989 c 96. Sections 1 through 6 and 9 through 14 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 on June 1, 1989. [1989 c 96 § 15.]

27.26.950 Termination of network. (Effective until June 30, 1997.) The western library network and its powers and duties shall be terminated on June 30, 1997. [1989 c 96 § 9.]

Findings—1989 c 96: See note following RCW 27.26.010.

27.26.951 Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1997:

(1) Section 2, chapter 31, Laws of 1975-'76 2nd ex. sess., section 1, chapter 21, Laws of 1985, section 2, chapter 96, Laws of 1989 and RCW 27.26.010;

(2) Section 1, chapter 31, Laws of 1975-'76 2nd ex. sess., section 2, chapter 21, Laws of 1985, section 13, chapter 504, Laws of 1987 and RCW 27.26.020;

(3) Section 2, chapter 110, Laws of 1975-'76 2nd ex. sess., section 4, chapter 21, Laws of 1985, section 4, chapter 389, Laws of 1987 and RCW 27.26.030;

(4) Section 4, chapter 110, Laws of 1975-'76 2nd ex. sess., section 6, chapter 21, Laws of 1985, section 12, chapter 504, Laws of 1987 and RCW 27.26.040;

(5) Section 7, chapter 21, Laws of 1985 and RCW 27.26.050;

(6) Section 8, chapter 21, Laws of 1985 and RCW 27.26.060;

(7) Section 1, chapter 96, Laws of 1989 (uncodified);

(8) Section 3, chapter 96, Laws of 1989 and RCW 27.26.070;

(9) Section 4, chapter 96, Laws of 1989 and RCW 27.26.080;

(10) [Section 4, chapter 426, Laws of 1987] Section 6, chapter 96, Laws of 1989 and RCW 27.26.— [42.18.221];

(11) Section 9, chapter 96, Laws of 1989 and RCW 27.26.950; and

(12) Section 11, chapter 96, Laws of 1989 and RCW 27.26.—[uncodified]. [1989 c 96 § 10.]

Chapter 27.34

STATE HISTORICAL SOCIETIES— HERITAGE COUNCIL— ARCHAEOLOGY AND HISTORIC PRESERVATION

Sections

27.34.010	Purpose.
27.34.020	Definitions.
27.34.030	Heritage council—Created—Purposes.
27.34.040	Heritage council—Members—Terms—Compensation—Meetings.
27.34.050	Heritage council—Adoption of state-wide plan—Contents.
27.34.060	State historical societies—Budget requests.
27.34.070	State historical societies—Powers and duties.
27.34.080	State historical societies—Appointment of directors—Removal.
27.34.090	State capital historical museum association account—Purposes.

27.34.200	Archaeology and historic preservation—Legislative declaration.
27.34.210	Office of archaeology and historic preservation—Preservation officer—Qualifications.
27.34.220	Director—Powers.
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27.34.240	Apportionment of grants.
27.34.250	Advisory council on historic preservation—Members—Expiration.
27.34.260	Advisory council—Compensation and reimbursement of members.
27.34.270	Advisory council—Duties.
27.34.280	Advisory council, heritage council—Financial and administrative services.
27.34.300	Bicentennial celebration of maritime accomplishments—Advisory committee.
27.34.900	State capitol historical museum.
27.34.906	Pickett House—In trust—Reverter.
27.34.910	Effective date—1983 c 91.

Archaeological sites and resources: Chapter 27.53 RCW.

Historic preservation—Authority of county, city, or town to acquire property, borrow money, issue bonds, etc.: RCW 35.21.395, 36.32.435.

27.34.010 Purpose. The legislature finds that those articles and properties which illustrate the history of the state of Washington should be maintained and preserved for the use and benefit of the people of the state. It is the purpose of this chapter to designate the three state historical societies as trustees of the state for these purposes, and to establish:

(1) A comprehensive and consistent state-wide policy pertaining to archaeology, history, historic preservation, and other historical matters;

(2) State-wide coordination of historical programs; and

(3) A coordinated budget for all state historical agencies.

[1983 c 91 § 1.]

27.34.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

(1) "Advisory council" means the advisory council on historic preservation.

(2) "Department" means the department of community development.

(3) "Director" means the director of community development.

(4) "Federal act" means the national historic preservation act of 1966 (Public Law 89-655; 80 Stat. 915).

(5) "Heritage council" means the Washington state heritage council.

(6) "Historic preservation" includes the protection, rehabilitation, restoration, identification, scientific excavation, and reconstruction of districts, sites, buildings, structures, and objects significant in American and Washington state history, architecture, archaeology, or culture.

(7) "Office" means the office of archaeology and historic preservation within the department of community development.

(8) "Preservation officer" means the state historic preservation officer as provided for in RCW 27.34.210.

(9) "Project" means programs leading to the preservation for public benefit of historical properties, whether by state and local governments or other public bodies, or private organizations or individuals, including the acquisition of title or interests in, and the development of, any district, site,

building, structure, or object that is significant in American and Washington state history, architecture, archaeology, or culture, and property used in connection therewith, or for its development.

(10) "State historical agencies" means the state historical societies and the office of archaeology and historic preservation within the department of community development.

(11) "State historical societies" means the Washington state historical society, the eastern Washington state historical society, and the state capital historical association.

(12) "Cultural resource management plan" means a comprehensive plan which identifies and organizes information on the state of Washington's historic, archaeological, and architectural resources into a set of management criteria, and which is to be used for producing reliable decisions, recommendations, and advice relative to the identification, evaluation, and protection of these resources. [1986 c 266 § 9; 1983 c 91 § 2.]

Severability—1986 c 266: See note following RCW 38.52.005.

Transfer of powers and duties of office of archaeology and historic preservation—Construction of statutory references: See note following RCW 38.52.005.

27.34.030 Heritage council—Created—Purposes. There is hereby created the Washington state heritage council. The purposes of the council are to:

(1) Adopt and maintain a state-wide plan pertaining to archaeology, history, historic preservation, and other historical matters;

(2) Monitor implementation of the plan by the state historical agencies and report any deficiencies to the legislature and the governor; and

(3) Review and comment on the budget requests of the state historical agencies based on the state-wide plan. [1983 c 91 § 3.]

27.34.040 Heritage council—Members—Terms—Compensation—Meetings. The heritage council shall consist of:

(1) A member of the Washington state historical society nominated by the governing board of the society and confirmed by the governor;

(2) A member of the eastern Washington state historical society nominated by the governing board of the society and confirmed by the governor;

(3) A member of the state capital historical association nominated by the governing board of the association and confirmed by the governor;

(4) The secretary of state; and

(5) Five persons appointed by the governor who are experienced and knowledgeable in historical and archaeological matters.

The council shall elect a chairperson from among its members. The secretary of state shall serve as an ex officio member of the council. The remaining council members shall serve four-year terms except initial members whose terms shall be as follows: Two members appointed for four years, two members appointed for three years, two members appointed for two years, and two members appointed for one year. Any vacancies shall be filled in the same manner as the original appointments for the balance of the unexpired

term. The secretary of state shall serve on the council without additional compensation. All other council members shall serve without compensation but shall be reimbursed for travel expenses incurred in the performance of the duties of the council as provided in RCW 43.03.050 and 43.03.060. The council shall meet at least once a quarter and at the call of the chairperson. Five members of the council shall constitute a quorum. [1983 c 91 § 4.]

27.34.050 Heritage council—Adoption of state-wide plan—Contents. The heritage council shall adopt a state-wide plan under RCW 27.34.030 before July 1, 1984. Before adopting the plan or any amendments to the plan, the council shall consult with the state historical agencies and other historical organizations. The plan shall include but not be limited to the following:

(1) The means by which the state historical agencies shall cooperate with other state agencies;

(2) The means by which the state historical agencies shall provide assistance to local historical organizations;

(3) A collections policy for the three state historical societies;

(4) The means by which historical materials shall be conserved;

(5) The development of historical interpretation, including the promotion and dissemination of Washington state history through exhibits, traveling exhibits, the celebration of significant historical events, publications and presentations in other media, and the use of state library and state archives resources; and

(6) A mechanism for reviewing state appropriations requests from the state historical agencies. [1983 c 91 § 5.]

27.34.060 State historical societies—Budget requests. Each state historical society shall submit its budget requests to the heritage council for review and comment. [1983 c 91 § 6.]

27.34.070 State historical societies—Powers and duties. (1) Each state historical society is designated a trustee for the state whose powers and duties include but are not limited to the following:

(a) To collect, catalog, preserve, and interpret objects, manuscripts, sites, photographs, and other materials illustrative of the cultural, artistic, and natural history of this state;

(b) To operate state museums and assist and encourage cultural and historical studies and museum interpretive efforts throughout the state, including those sponsored by local historical organizations, and city, county, and state agencies;

(c) To engage in cultural, artistic, and educational activities, including classes, exhibits, seminars, workshops, and conferences if these activities are related to the basic purpose of the society;

(d) To plan for and conduct celebrations of significant events in the history of the state of Washington and to give assistance to and coordinate with state agencies, local governments, and local historical organizations in planning and conducting celebrations;

(e) To create one or more classes of membership in the society;

(f) To engage in the sale of various articles which are related to the basic purpose of the society;

(g) To engage in appropriate fund-raising activities for the purpose of increasing the self-support of the society;

(h) To accept gifts, grants, conveyances, bequests, and devises, of real or personal property, or both, in trust or otherwise, and sell, lease, exchange, invest, or expend the same or the proceeds, rents, profits, and income therefrom except as limited by the donor's terms. The governing boards of the state historical societies shall adopt rules to govern and protect the receipt and expenditure of the proceeds, rents, profits, and income of all such gifts, grants, conveyances, bequests, and devises;

(i) To accept on loan or lend objects of historical interest, and sell, exchange, divest itself of, or refuse to accept, items which do not enhance the collection;

(j) To charge general or special admission fees to its museums or exhibits and to waive or decrease such fees as it finds appropriate; and

(k) To work with the heritage council in developing the plan under RCW 27.34.050.

(2) All objects, sites, manuscripts, photographs, and all property, including real property, now held or hereafter acquired by the state historical societies shall be held by the societies in trust for the use and benefit of the people of Washington state. [1983 c 91 § 7.]

27.34.080 State historical societies—Appointment of directors—Removal. The governing board of each state historical society shall appoint its respective director with the consent of the governor. The governor may remove a director for cause or if a majority of the society's governing board votes for removal. [1983 c 91 § 8.]

27.34.090 State capital historical museum association account—Purposes. All moneys in the state capital historical museum association account hereby created in the state treasury and any moneys appropriated from that account, shall be expended for the purposes of the state capital historical association museum as determined by a majority of the governing board of the state capital historical association. [1991 sp.s. c 13 § 36; 1985 c 57 § 7; 1983 c 91 § 9.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

27.34.200 Archaeology and historic preservation—Legislative declaration. The legislature hereby finds that the promotion, enhancement, perpetuation, and use of structures, sites, districts, buildings, and objects of historic, archaeological, architectural, and cultural significance is desirable in the interest of the public pride and general welfare of the people of the state; and the legislature further finds that the economic, cultural, and aesthetic standing of the state can be maintained and enhanced by protecting the heritage of the state and by preventing the destruction or defacement of these assets; therefore, it is hereby declared by the legislature to be the public policy and in the public interest of the state to designate, preserve, protect, enhance, and perpetuate those structures, sites, districts, buildings, and

objects which reflect outstanding elements of the state's historic, archaeological, architectural, or cultural heritage, for the inspiration and enrichment of the citizens of the state. [1983 c 91 § 10.]

27.34.210 Office of archaeology and historic preservation—Preservation officer—Qualifications. There is hereby established the office of archaeology and historic preservation within the department of community development.

The director shall appoint the preservation officer to assist the director in implementing this chapter. The preservation officer shall have a background in program administration, an active involvement in historic preservation, and a knowledge of the national, state, and local preservation programs as they affect the state of Washington. [1986 c 266 § 10; 1983 c 91 § 11.]

Severability—1986 c 266: See note following RCW 38.52.005.

Identification of historic properties and sites in need of rehabilitation or renovation—Use of conservation corps members: RCW 43.220.180.

27.34.220 Director—Powers. The director or the director's designee is authorized:

(1) To promulgate and maintain a state register of districts, sites, buildings, structures, and objects significant in American or Washington state history, architecture, archaeology, and culture, and to prepare comprehensive state-wide historic surveys and plans and research and evaluation of surveyed resources for the preparation of nominations to the state and national registers of historic places, in accordance with criteria approved by the advisory council established under RCW 27.34.250. The nominations shall comply with any standards and regulations promulgated by the United States secretary of the interior for the preservation, acquisition, and development of such properties.

(2) To establish a program of matching grants-in-aid to public agencies, public or private organizations, or individuals for projects having as their purpose the preservation for public benefit of properties that are significant in American or Washington state history, architecture, archaeology, and culture.

(3) To promote historic preservation efforts throughout the state, including private efforts and those of city, county, and state agencies.

(4) To enhance the effectiveness of the state preservation program through the initiation of legislation, the use of varied funding sources, the creation of special purpose programs, and contact with state, county, and city officials, civic groups, and professionals.

(5) To spend funds, subject to legislative appropriation and the availability of funds, where necessary to assist the Indian tribes of Washington state in removing prehistoric human remains for scientific examination and reburial, if the human remains have been unearthed inadvertently or through vandalism and if no other public agency is legally responsible for their preservation.

(6) To consult with the governor and the legislature on issues relating to the conservation of the man-made environment and their impact on the well-being of the state and its citizens.

(7) To charge fees for professional and clerical services provided by the office.

(8) To adopt such rules, in accordance with chapter 34.05 RCW, as are necessary to carry out RCW 27.34.200 through 27.34.280. [1987 c 505 § 8; 1986 c 266 § 11; 1985 c 64 § 2; 1983 c 91 § 12.]

Severability—1986 c 266: See note following RCW 38.52.005.

27.34.230 Director—Duties. The director or the director's designee shall:

(1) Submit the budget requests for the office to the heritage council for review and comment;

(2) Receive, administer, and disburse such gifts, grants, and endowments from private sources as may be made in trust or otherwise for the purposes of RCW 27.34.200 through *27.34.290 or the federal act; and

(3) Develop and implement a cultural resource management plan. [1986 c 266 § 12; 1983 c 91 § 13.]

***Reviser's note:** RCW 27.34.290 was repealed by 1986 c 266 § 53.

Severability—1986 c 266: See note following RCW 38.52.005.

27.34.240 Apportionment of grants. The amounts made available for grants to the public agencies, public or private organizations, or individuals for projects for each fiscal year shall be apportioned among program applicants by the director or the director's designee, with the advice of the preservation officer, in accordance with needs as contained in state-wide archaeology and historic preservation plans developed by the department. [1986 c 266 § 13; 1983 c 91 § 14.]

Severability—1986 c 266: See note following RCW 38.52.005.

27.34.250 Advisory council on historic preservation—Members—Expiration. (1) There is hereby established an advisory council on historic preservation, which shall be composed of nine members appointed by the governor as follows:

(a) The director of a state historical society or the director's designee to be selected from (i) the director of the Washington state historical society, (ii) the director of the Eastern Washington state historical society, and (iii) the director of the state capital historical society, to each serve on the council for one year on a rotating basis, the order of rotation to be determined by the governor;

(b) Six members of the public who are interested and experienced in matters to be considered by the council including the fields of history, architecture, and archaeology;

(c) The director of the Washington archaeological research center or the director's designee; and

(d) A native American.

(2) Each member of the council appointed under subsection (1)(b) and (d) of this section shall serve a four-year term, except that those members first appointed shall serve for terms of from one to four years as designated by the governor at the time of appointment, it being the purpose of this subsection to assure staggered terms of office.

(3) A vacancy in the council shall not affect its powers, but shall be filled in the same manner as the original appointment for the balance of the unexpired term.

(4) The chairperson of the council shall be designated by the governor.

(5) Five members of the council shall constitute a quorum.

(6) The council shall cease to exist on June 30, 1993, unless extended by law for an additional fixed period of time. [1983 c 91 § 15.]

27.34.260 Advisory council—Compensation and reimbursement of members. The directors of the state historical societies shall serve as members of the advisory council on historic preservation without additional compensation. All other members of the advisory council shall be reimbursed for travel expenses incurred in the performance of the duties of the council in accordance with RCW 43.03.050 and 43.03.060. [1983 c 91 § 18.]

27.34.270 Advisory council—Duties. The advisory council shall:

(1) Advise the governor and the department on matters relating to historic preservation; recommend measures to coordinate activities of state and local agencies, private institutions, and individuals relating to historic preservation; and advise on the dissemination of information pertaining to such activities; and

(2) Review and recommend nominations for the state and national registers of historic places to the preservation officer and the director. [1986 c 266 § 14; 1983 c 91 § 17.]

Severability—1986 c 266: See note following RCW 38.52.005.

27.34.280 Advisory council, heritage council—Financial and administrative services. The department shall provide administrative and financial services to the advisory council on historic preservation and to the Washington state heritage council. [1986 c 266 § 15; 1983 c 91 § 16.]

Severability—1986 c 266: See note following RCW 38.52.005.

27.34.300 Bicentennial celebration of maritime accomplishments—Advisory committee. (1) The Washington state historical society shall plan and implement an appropriate commemorative celebration of the bicentennials of the maritime accomplishments in 1792 of Robert Gray and George Vancouver, and the establishment of a Spanish outpost at Neah Bay.

(2) To accomplish this purpose, the society shall:

(a) Coordinate its activities with the Grays Harbor Tall Ships construction program;

(b) Organize museum exhibitions, including components that can travel to all sections of the state;

(c) Conduct a maritime heritage markers program along the Pacific coast, Puget Sound, and waterways in the Columbia river basin;

(d) Issue publications, organize festivals and scholarly symposia, and conduct other activities as may be appropriate.

(3) The society shall cooperate with the entities in the state of Oregon and the province of British Columbia that are planning similar activities.

(4) The society shall create an advisory committee to review and comment upon the society's commemorative plan and implementation. The committee shall have nine members, five of whom shall be citizens from areas of the state which have a special affinity to the explorations being

commemorated and shall be appointed by the society. Four members shall be legislators. The speaker of the house of representatives shall appoint one member from each caucus and the president of the senate shall appoint one member from each caucus. Vacancies in the committee may be filled in accordance with original appointment procedures. [1989 c 82 § 2.]

Findings—1989 c 82: "(1) The legislature finds that:

(a) Robert Gray's discovery of the Columbia river and Gray's Harbor in 1792 provided the foundation for American claims to sovereignty over the Oregon country;

(b) George Vancouver, following in the tradition of scientific discovery inaugurated by Captain Cook, commanded an expedition that made many contributions to the understanding of world geography, including the existence of Puget Sound, which he explored in 1792;

(c) The Spanish/Mexican outpost at Neah Bay, founded in 1792 to establish a southern limit to Russian and English encroachment on presumed Spanish prerogatives in the north Pacific, was the first European settlement in the state of Washington.

(2) The legislature intends for the Washington state historical society to plan and implement an appropriate commemoration and celebration of the bicentennials of the epic maritime accomplishments of 1792, which separately and collectively represent the multicultural nature of Euroamerican exploration in the Northwest and the onset of sustained contact with Washington's native people." [1989 c 82 § 1.]

27.34.900 State capitol historical museum. The building and grounds designated as Block 2, Grainger's Addition to the City of Olympia, County of Thurston, acquired by the state under senate joint resolution No. 18, session of 1939, is hereby designated a part of the state capitol, to be known as the state capitol historical museum. This structure is to be used to house and interpret the collection of the association. This section does not limit the association's use of other structures. [1981 c 253 § 3; 1941 c 44 § 3; Rem. Supp. 1941 § 8265-6. Formerly RCW 27.36.020.]

27.34.906 Pickett House—In trust—Reverter. Said chapter, by acceptance of such conveyance, shall be deemed to have agreed to hold said property in trust for the state of Washington, and to maintain and keep the same open to the public as an historical site, and, in case of its failure so to do, title to said property shall revert to the state of Washington. [1965 c 31 § 2. Formerly RCW 27.28.022.]

27.34.910 Effective date—1983 c 91. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1983. [1983 c 91 § 27.]

Chapter 27.40

THOMAS BURKE MEMORIAL WASHINGTON STATE MUSEUM OF UNIVERSITY OF WASHINGTON

(Formerly: Museum of University of Washington)

Sections

- 27.40.010 Thomas Burke Memorial Washington State Museum constituted state natural history and anthropology museum.
27.40.030 Acceptance of materials from private sources.

- 27.40.034 Permanent acquisition of documents and materials on loan to museum, procedure—Return of stolen documents and materials to owner.
27.40.036 Sale or trade of acquired documents or materials—Use of proceeds.
27.40.040 Management in board of regents.

27.40.010 Thomas Burke Memorial Washington State Museum constituted state natural history and anthropology museum. The Thomas Burke Memorial Washington State Museum of the University of Washington is hereby constituted the state natural history and anthropology museum as a repository for the preservation, exhibition, interpretation, and conservation of documents and objects of a systematic anthropological, geological, and zoological character for the state. [1985 c 29 § 1; 1899 c 30 § 1; RRS § 8255.]

Effective date—1985 c 29: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on June 30, 1985." [1985 c 29 § 3.]

27.40.030 Acceptance of materials from private sources. This museum may receive all such above named documents or material for preservation and exhibition from any private person under such rules and regulations as the board of regents of the University of Washington may deem proper to make for the care of the aforesaid museum. [1899 c 30 § 3; RRS § 8257.]

27.40.034 Permanent acquisition of documents and materials on loan to museum, procedure—Return of stolen documents and materials to owner. The board of regents may provide, by rule or regulation, for:

(1) The permanent acquisition of documents or materials on loan to the state museum at the University of Washington, if the documents or materials have not been claimed by the owner thereof within ninety days after notice is sent by certified mail, return receipt requested, to the owner at his last known address by the board of regents and if the certified letter be returned because it could not be delivered to the addressee, public notice shall be published by the University of Washington once each week during two successive weeks in a newspaper circulating in the city of Seattle and the county of King describing the unclaimed documents or materials, giving the name of the reputed owner thereof and requesting all persons who may have any knowledge of the whereabouts of the owner to contact the office of the museum of the University of Washington: PROVIDED HOWEVER, That more than one item may be described in each of the notices;

(2) The return to the rightful owner of documents or materials in the possession of the museum, which documents or materials are determined to have been stolen: PROVIDED, That any person claiming to be the rightful legal owner of the documents or materials who wishes to challenge the determination by the board shall have the right to commence a declaratory judgment action pursuant to chapter 7.24 RCW in the superior court for King county to determine the validity of his claim of ownership to the documents or materials. [1985 c 469 § 13; 1975 1st ex.s. c 159 § 1.]

27.40.036 Sale or trade of acquired documents or materials—Use of proceeds. Documents or materials acquired under the provisions of RCW 27.40.034 may be sold, or may be traded for other documents or materials. The proceeds from the sale of any such documents or materials may be used to acquire additional documents or materials or may be used to defray the cost of operating the museum. [1975 1st ex.s. c 159 § 2.]

27.40.040 Management in board of regents. The board of regents of the University of Washington ex officio shall have full charge and management of the state museum hereby created. [1899 c 30 § 4; RRS § 8258.]

Chapter 27.44

INDIAN GRAVES AND RECORDS

Sections

27.44.020	Examination permitted—Removal to archaeological repository.
27.44.030	Intent.
27.44.040	Protection of Indian graves—Penalty.
27.44.050	Civil action by Indian tribe or member—Time for commencing action—Venue—Damages—Attorneys' fees.
27.44.900	Captions not law—1989 c 44.
27.44.901	Liberal construction—1989 c 44.

27.44.020 Examination permitted—Removal to archaeological repository. Any archaeologist or interested person may copy and examine such glyptic or painted records or examine the surface of any such cairn or grave, but no such record or archaeological material from any such cairn or grave may be removed unless the same shall be destined for reburial or perpetual preservation in a duly recognized archaeological repository and permission for scientific research and removal of specimens of such records and material has been granted by the state historic preservation officer. Whenever a request for permission to remove records or material is received, the state historic preservation officer shall notify the affected Indian tribe or tribes. [1985 c 64 § 1; 1977 ex.s. c 169 § 6; 1941 c 216 § 2; Rem. Supp. 1941 § 3207-11.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

27.44.030 Intent. The legislature hereby declares that:
 (1) Native Indian burial grounds and historic graves are acknowledged to be a finite, irreplaceable, and nonrenewable cultural resource, and are an intrinsic part of the cultural heritage of the people of Washington. The legislature recognizes the value and importance of respecting all graves, and the spiritual significance of such sites to the people of this state;

(2) There have been reports and incidents of deliberate interference with native Indian and historic graves for profit-making motives;

(3) There has been careless indifference in cases of accidental disturbance of sites, graves, and burial grounds;

(4) Indian burial sites, cairns, glyptic markings, and historic graves located on public and private land are to be protected and it is therefore the legislature's intent to encourage voluntary reporting and respectful handling in

cases of accidental disturbance and provide enhanced penalties for deliberate desecration. [1989 c 44 § 1.]

27.44.040 Protection of Indian graves—Penalty. (1) Any person who knowingly removes, mutilates, defaces, injures, or destroys any cairn or grave of any native Indian, or any glyptic or painted record of any tribe or peoples is guilty of a class C felony punishable under chapter 9A.20 RCW. Persons disturbing native Indian graves through inadvertence, including disturbance through construction, mining, logging, agricultural activity, or any other activity, shall reinter the human remains under the supervision of the appropriate Indian tribe. The expenses of reinterment are to be paid by the office of archaeology and historic preservation pursuant to RCW 27.34.220.

(2) Any person who sells any native Indian artifacts or any human remains that are known to have been taken from an Indian cairn or grave, is guilty of a class C felony punishable under chapter 9A.20 RCW.

(3) This section does not apply to:

(a) The possession or sale of native Indian artifacts discovered in or taken from locations other than native Indian cairns or graves, or artifacts that were removed from cairns or graves as may be authorized by RCW 27.53.060 or by other than human action; or

(b) Actions taken in the performance of official law enforcement duties.

(4) It shall be a complete defense in the prosecution under this section if the defendant can prove by a preponderance of evidence that the alleged acts were accidental or inadvertent and that reasonable efforts were made to preserve the remains, glyptic, or painted records, or artifacts accidentally disturbed or discovered, and that the accidental discovery or disturbance was properly reported. [1989 c 44 § 2.]

27.44.050 Civil action by Indian tribe or member—Time for commencing action—Venue—Damages—Attorneys' fees. (1) Apart from any criminal prosecution, an Indian tribe or enrolled member thereof, shall have a civil action to secure an injunction, damages, or other appropriate relief against any person who is alleged to have violated RCW 27.44.040. The action must be brought within two years of the discovery of the violation by the plaintiff. The action may be filed in the superior or tribal court of the county in which the grave, cairn, remains, or artifacts are located, or in the superior court of the county within which the defendant resides.

(2) Any conviction pursuant to RCW 27.44.040 shall be prima facie evidence in an action brought under this section.

(3) If the plaintiff prevails:

(a) The court may award reasonable attorneys' fees to the plaintiff;

(b) The court may grant injunctive or such other equitable relief as is appropriate, including forfeiture of any artifacts or remains acquired or equipment used in the violation. The court shall order the disposition of any items forfeited as the court sees fit, including the reinterment of human remains;

(c) The plaintiff shall recover imputed damages of five hundred dollars or actual damages, whichever is greater.

Actual damages include special and general damages, which include damages for emotional distress;

(d) The plaintiff may recover punitive damages upon proof that the violation was willful. Punitive damages may be recovered without proof of actual damages. All punitive damages shall be paid by the defendant to the office of archaeology and historic preservation for the purposes of Indian historic preservation and to cover the cost of reinterment expenses by the office; and

(e) An award of imputed or punitive damages may be made only once for a particular violation by a particular person, but shall not preclude the award of such damages based on violations by other persons or on other violations.

(4) If the defendant prevails, the court may award reasonable attorneys' fees to the defendant. [1989 c 44 § 3.]

27.44.900 Captions not law—1989 c 44. Section captions used in this act do not constitute any part of the law. [1989 c 44 § 10.]

27.44.901 Liberal construction—1989 c 44. This act is to be liberally construed to achieve the legislature's intent. [1989 c 44 § 11.]

Chapter 27.48

PRESERVATION OF HISTORICAL MATERIALS

Sections

27.48.010 Public purpose declared—Powers of counties and municipalities.

Preservation and destruction of public records, state archivist: Chapter 40.14 RCW.

27.48.010 Public purpose declared—Powers of counties and municipalities. The storage, preservation and exhibit of historical materials, including, but not restricted to, books, maps, writings, newspapers, ancient articles, and tools of handicraft, antiques, artifacts, and relics is declared to be a public project carried on for public purpose and the legislative body of any county, city or town, may provide quarters therefor within the territorial limits thereof and may provide funds necessary for the proper operation of any such institution already in operation, or otherwise provide for the preservation of historical material covered by this chapter. [1957 c 47 § 1; 1949 c 160 § 1; Rem. Supp. 1949 § 8265-9.]

Chapter 27.53

ARCHAEOLOGICAL SITES AND RESOURCES

Sections

27.53.010 Declaration.
27.53.020 Archaeological resource preservation, etc., declared public functions—Archaeological research center designated state agency—Cooperation enjoined.
27.53.030 Definitions.
27.53.040 Archaeological resources—Declaration.
27.53.045 Abandoned archaeological resources—Declaration.
27.53.060 Disturbing, etc., archaeological resource or site without written permit or permission unlawful—Conditions allowed—Exceptions.

27.53.070 Field investigations—Communication of site or resource location to research center.
27.53.080 Archaeological activities upon public lands—Entry—Agreement—Approval of activities.
27.53.090 Violations—Penalty.
27.53.100 Historic archaeological resources on state-owned aquatic lands—Discovery and report—Right of first refusal.
27.53.110 Contracts for discovery and salvage of state-owned historic archaeological resources.
27.53.120 Recovery of property from historic archaeological sites—Mitigation of damage—Refusal to issue salvage permit to prevent destruction of resource.
27.53.130 List of areas requiring permits.
27.53.140 Rule-making authority.
27.53.150 Proceeds from state's property—Deposit and use.
27.53.900 Severability—1975 1st ex.s. c 134.
27.53.901 Severability—1988 c 124.

Office of archaeology and historic preservation: RCW 27.34.200 through 27.34.240.

27.53.010 Declaration. The legislature hereby declares that the public has an interest in the conservation, preservation, and protection of the state's archaeological resources, and the knowledge to be derived and gained from the scientific study of these resources. [1975 1st ex.s. c 134 § 1.]

27.53.020 Archaeological resource preservation, etc., declared public functions—Archaeological research center designated state agency—Cooperation enjoined. The discovery, identification, excavation, and study of the state's archaeological resources, the providing of information on archaeological sites for their nomination to the state and national registers of historic places, the maintaining of a complete inventory of archaeological sites and collections, and the providing of information to state, federal, and private construction agencies regarding the possible impact of construction activities on the state's archaeological resources, are proper public functions; and the Washington archaeological research center, created under the authority of chapter 39.34 RCW as now existing or hereafter amended, is hereby designated as an appropriate agency to carry out these functions. The director, in consultation with the Washington archaeological research center, shall provide guidelines for the selection of depositories designated by the state for archaeological resources. The legislature directs that there shall be full cooperation amongst the department, the Washington archaeological research center, and other agencies of the state. [1986 c 266 § 16; 1977 ex.s. c 195 § 12; 1975-'76 2nd ex.s. c 82 § 1; 1975 1st ex.s. c 134 § 2.]

Severability—1986 c 266: See note following RCW 38.52.005.

Severability—1977 ex.s. c 195: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 195 § 20.]

27.53.030 Definitions. Unless the context clearly requires otherwise, the definitions contained in this section shall apply throughout this chapter.

(1) "Archaeology" means systematic, scientific study of man's past through material remains.

(2) "Archaeological object" means an object that comprises the physical evidence of an indigenous and subsequent culture including material remains of past human

life including monuments, symbols, tools, facilities, and technological by-products.

(3) "Archaeological site" means a geographic locality in Washington, including but not limited to, submerged and submersible lands and the bed of the sea within the state's jurisdiction, that contains archaeological objects.

(4) "Department" means the department of community development.

(5) "Director" means the director of community development or the director's designee.

(6) "Historic" means peoples and cultures who are known through written documents in their own or other languages. As applied to underwater archaeological resources, the term historic shall include only those properties which are listed in or eligible for listing in the Washington State Register of Historic Places (RCW 27.34.220) or the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.

(7) "Prehistoric" means peoples and cultures who are unknown through contemporaneous written documents in any language.

(8) "Professional archaeologist" means a person who has met the educational, training, and experience requirements of the society of professional archaeologists.

(9) "Qualified archaeologist" means a person who has had formal training and/or experience in archaeology over a period of at least three years, and has been certified in writing to be a qualified archaeologist by two professional archaeologists.

(10) "Amateur society" means any organization composed primarily of persons who are not professional archaeologists, whose primary interest is in the archaeological resources of the state, and which has been certified in writing by two professional archaeologists.

(11) "Historic archaeological resources" means those properties which are listed in or eligible for listing in the Washington State Register of Historic Places (RCW 27.34.220) or the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended. [1989 c 44 § 6; 1988 c 124 § 2; 1986 c 266 § 17; 1983 c 91 § 20; 1977 ex.s. c 195 § 13; 1975 1st ex.s. c 134 § 3.]

Intent—1989 c 44: See RCW 27.44.030.

Captions not law—Liberal construction—1989 c 44: See RCW 27.44.900 and 27.44.901.

Intent—1988 c 124: "It is the intent of the legislature that those historic archaeological resources located on state-owned aquatic lands that are of importance to the history of our state, or its communities, be protected for the people of the state. At the same time, the legislature also recognizes that divers have long enjoyed the recreation of diving near shipwrecks and picking up artifacts from the state-owned aquatic lands, and it is not the intent of the legislature to regulate these occasional, recreational activities except in areas where necessary to protect underwater historic archaeological sites. The legislature also recognizes that salvors who invest in a project to salvage underwater archaeological resources on state-owned aquatic lands should be required to obtain a state permit for their operation in order to protect the interest of the people of the state, as well as to protect the interest of the salvors who have invested considerable time and money in the salvage expedition." [1988 c 124 § 1.]

Application—1988 c 124: "This act shall not affect any ongoing salvage effort in which the state has entered into separate contracts or

agreements prior to March 18, 1988." [1988 c 124 § 13.] For codification of "this act," see Codification Tables, Volume 0.

Severability—1986 c 266: See note following RCW 38.52.005.

Effective date—1983 c 91: See RCW 27.34.910.

Severability—1977 ex.s. c 195: See note following RCW 27.53.020.

27.53.040 Archaeological resources—Declaration.

All sites, objects, structures, artifacts, implements, and locations of prehistorical or archaeological interest, whether previously recorded or still unrecognized, including, but not limited to, those pertaining to prehistoric and historic American Indian or aboriginal burials, campsites, dwellings, and habitation sites, including rock shelters and caves, their artifacts and implements of culture such as projectile points, arrowheads, skeletal remains, grave goods, basketry, pestles, mauls and grinding stones, knives, scrapers, rock carvings and paintings, and other implements and artifacts of any material that are located in, on, or under the surface of any lands or waters owned by or under the possession, custody, or control of the state of Washington or any county, city, or political subdivision of the state are hereby declared to be archaeological resources. [1975 1st ex.s. c 134 § 4.]

27.53.045 Abandoned archaeological resources—

Declaration. All historic archaeological resources abandoned for thirty years or more in, on, or under the surface of any public lands or waters owned by or under the possession, custody, or control of the state of Washington, including, but not limited to all ships, or aircraft, and any part or the contents thereof, and all treasure trove is hereby declared to be the property of the state of Washington. [1988 c 124 § 3.]

Intent—Application—1988 c 124: See notes following RCW 27.53.030.

27.53.060 Disturbing, etc., archaeological resource

or site without written permit or permission unlawful—Conditions allowed—Exceptions. (1) On the private and public lands of this state it shall be unlawful for any person, firm, corporation, or any agency or institution of the state or a political subdivision thereof to knowingly remove, alter, dig into, or excavate by use of any mechanical, hydraulic, or other means, or to damage, deface, or destroy any historic or prehistoric archaeological resource or site, or remove any archaeological object from such site, except for Indian graves or cairns, or any glyphic or painted record of any tribe or peoples, or historic graves as defined in chapter 68.05 RCW, disturbances of which shall be a class C felony punishable under chapter 9A.20 RCW, without having obtained a written permit from the director for such activities.

(2) The director must obtain the consent of the private or public property owner or agency responsible for the management thereof, prior to issuance of the permit. The property owner or agency responsible for the management of such land may condition its consent on the execution of a separate agreement, lease, or other real property conveyance with the applicant as may be necessary to carry out the legal rights or duties of the public property landowner or agency. The director, in consultation with the affected tribes, shall develop guidelines for the issuance and processing of

permits. Such written permit and any agreement or lease or other conveyance required by any public property owner or agency responsible for management of such land shall be physically present while any such activity is being conducted. The provisions of this section shall not apply to the removal of artifacts found exposed on the surface of the ground which are not historic archaeological resources or sites. [1989 c 44 § 7; 1988 c 124 § 4; 1986 c 266 § 18; 1977 ex.s. c 195 § 14; 1975-'76 2nd ex.s. c 82 § 2; 1975 1st ex.s. c 134 § 6.]

Intent—1989 c 44: See RCW 27.44.030.

Captions not law—Liberal construction—1989 c 44: See RCW 27.44.900 and 27.44.901.

Intent—Application—1988 c 124: See notes following RCW 27.53.030.

Severability—1986 c 266: See note following RCW 38.52.005.

Severability—1977 ex.s. c 195: See note following RCW 27.53.020.

27.53.070 Field investigations—Communication of site or resource location to research center. It is the declared intention of the legislature that field investigations on privately owned lands should be discouraged except in accordance with both the provisions and spirit of this chapter and persons having knowledge of the location of archaeological sites or resources are encouraged to communicate such information to the Washington archaeological research center. Such information shall not constitute a public record which requires disclosure pursuant to the exception authorized in RCW 42.17.310, as now or hereafter amended, to avoid site depredation. [1975-'76 2nd ex.s. c 82 § 3; 1975 1st ex.s. c 134 § 7.]

27.53.080 Archaeological activities upon public lands—Entry—Agreement—Approval of activities. Qualified or professional archaeologists, in performance of their duties, are hereby authorized to enter upon public lands of the state of Washington and its political subdivisions, at such times and in such manner as not to interfere with the normal management thereof, for the purposes of doing archaeological resource location and evaluation studies, including site sampling activities. Scientific excavations are to be carried out only after appropriate agreement has been made between a professional archaeologist or an institution of higher education and the agency or political subdivision responsible for such lands. Notice of such agreement shall be filed with the Washington archaeological research center and by them to the department. Amateur societies may engage in such activities by submitting and having approved by the responsible agency or political subdivision a written proposal detailing the scope and duration of the activity. Before approval, a proposal from an amateur society shall be submitted to the Washington archaeological research center for review and recommendation. [1986 c 266 § 19; 1977 ex.s. c 195 § 15; 1975 1st ex.s. c 134 § 8.]

Severability—1986 c 266: See note following RCW 38.52.005.

Severability—1977 ex.s. c 195: See note following RCW 27.53.020.

27.53.090 Violations—Penalty. Any person, firm, or corporation violating any of the provisions of this chapter shall be guilty of a misdemeanor. Each day of continued violation of any provision of this chapter shall constitute a

distinct and separate offense. Offenses shall be reported to the appropriate law enforcement agency or to the director. [1986 c 266 § 20; 1977 ex.s. c 195 § 16; 1975-'76 2nd ex.s. c 82 § 4; 1975 1st ex.s. c 134 § 9.]

Severability—1986 c 266: See note following RCW 38.52.005.

Severability—1977 ex.s. c 195: See note following RCW 27.53.020.

27.53.100 Historic archaeological resources on state-owned aquatic lands—Discovery and report—Right of first refusal. Persons, firms, corporations, institutions, or agencies which discover a previously unreported historic archaeological resource on state-owned aquatic lands and report the site or location of such resource to the department shall have a right of first refusal to future salvage permits granted for the recovery of that resource, subject to the provisions of RCW 27.53.110. Such right of first refusal shall exist for five years from the date of the report. Should another person, firm, corporation, institution, or agency apply for a permit to salvage that resource, the reporting entity shall have sixty days to submit its own permit application and exercise its first refusal right, or the right shall be extinguished. [1988 c 124 § 5.]

Intent—Application—1988 c 124: See notes following RCW 27.53.030.

27.53.110 Contracts for discovery and salvage of state-owned historic archaeological resources. The director is hereby authorized to enter into contracts with other state agencies or institutions and with qualified private institutions, persons, firms, or corporations for the discovery and salvage of state-owned historic archaeological resources. Such contracts shall include but are not limited to the following terms and conditions:

(1) Historic shipwrecks:

(a) The contract shall provide for fair compensation to a salvor. "Fair compensation" means an amount not less than ninety percent of the appraised value of the objects recovered following successful completion of the contract.

(b) The salvor may retain objects with a value of up to ninety percent of the appraised value of the total objects recovered, or cash, or a combination of objects and cash. In no event may the total of objects and cash exceed ninety percent of the total appraised value of the objects recovered. A salvor shall not be entitled to further compensation from any state sources.

(c) The contract shall provide that the state will be given first choice of which objects it may wish to retain for display purposes for the people of the state from among all the objects recovered. The state may retain objects with a value of up to ten percent of the appraised value of the total objects recovered. If the state chooses not to retain recovered objects with a value of up to ten percent of the appraised value, the state shall be entitled to receive its share in cash or a combination of recovered objects and cash so long as the state's total share does not exceed ten percent of the appraised value of the objects recovered.

(d) The contract shall provide that both the state and the salvor shall have the right to select a single appraiser or joint appraisers.

(e) The contract shall also provide that title to the objects shall pass to the salvor when the permit is issued.

However, should the salvor fail to fully perform under the terms of the contract, title to all objects recovered shall revert to the state.

(2) Historic aircraft:

(a) The contract shall provide that historic aircraft belonging to the state of Washington may only be recovered if the purpose of that salvage operation is to recover the aircraft for a museum, historical society, nonprofit organization, or governmental entity.

(b) Title to the aircraft may only be passed by the state to one of the entities listed in (a) of this subsection.

(c) Compensation to the salvor shall only be derived from the sale or exchange of the aircraft to one of the entities listed in (a) of this subsection or such other compensation as one of the entities listed in (a) of this subsection and the salvor may arrange. The salvor shall not have a claim to compensation from state funds.

(3) Other historic archaeological resources: The director, in his or her discretion, may negotiate the terms of such contracts. [1988 c 124 § 6.]

Intent—Application—1988 c 124: See notes following RCW 27.53.030.

27.53.120 Recovery of property from historic archaeological sites—Mitigation of damage—Refusal to issue salvage permit to prevent destruction of resource. The salvor shall agree to mitigate any archaeological damage which occurs during the salvage operation. The department shall have access to all property recovered from historic archaeological sites for purposes of scholarly research and photographic documentation for a period to be agreed upon by the parties following completion of the salvage operation. The department shall also have the right to publish scientific papers concerning the results of all research conducted as project mitigation.

The director has the right to refuse to issue a permit for salvaging an historic archaeological resource if that resource would be destroyed beyond mitigation by the proposed salvage operation. Any agency, institution, person, firm, or corporation which has been denied a permit because the resource would be destroyed beyond mitigation by their method of salvage shall have a right of first refusal for that permit at a future date should technology be found which would make salvage possible without destroying the resource. Such right of first refusal shall be in effect for sixty days after the director has determined that salvage can be accomplished by a subsequent applicant without destroying the resource.

No person, firm, or corporation may conduct such salvage or recovery operation herein described without first obtaining such contract. [1988 c 124 § 7.]

Intent—Application—1988 c 124: See notes following RCW 27.53.030.

27.53.130 List of areas requiring permits. The department of community development shall publish annually and update as necessary a list of those areas where permits are required to protect historic archaeological sites on aquatic lands. [1988 c 124 § 10.]

Intent—application—1988 c 124: See notes following RCW 27.53.030.

27.53.140 Rule-making authority. The department of community development shall have such rule-making authority as is necessary to carry out the provisions of this chapter. [1988 c 124 § 11.]

Intent—Application—1988 c 124: See notes following RCW 27.53.030.

27.53.150 Proceeds from state's property—Deposit and use. Any proceeds from the state's share of property under this chapter shall be transmitted to the state treasurer for deposit in the general fund to be used only for the purposes of historic preservation and underwater archaeology. [1988 c 124 § 12.]

Intent—Application—1988 c 124: See notes following RCW 27.53.030.

27.53.900 Severability—1975 1st ex.s. c 134. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected. [1975 1st ex.s. c 134 § 10.]

27.53.901 Severability—1988 c 124. 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. [1988 c 124 § 14.]

Chapter 27.60

1989 WASHINGTON CENTENNIAL

Sections

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27.60.050	Staff for the commission.
27.60.070	Program to observe anniversaries of adoption of federal and state Constitutions.
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27.60.090	Use of logos, emblems, slogans, etc., adopted by commission—Limitations—Penalties.
27.60.900	Termination of commission.

27.60.010 Intent—Commemoration of centennial encouraged. November 11, 1989, will mark the centennial of Washington's admission to the Union. It is fitting that an event of this magnitude should be commemorated by the state of Washington. Such an event symbolizes achievement and growth and should remind the people of Washington that the past shapes our present and gives hope for a productive future. Therefore, every community of the state is encouraged to commemorate this historic event. [1982 c 90 § 1.]

27.60.020 1989 Washington centennial commission created. (1) There is established the 1989 Washington centennial commission composed of twenty-five members selected as follows:

(a) Four members of the house of representatives appointed by the speaker of the house, two from each political party;

(b) Four members of the senate appointed by the president of the senate, two from each political party;

(c) Seventeen citizens of the state, appointed by and serving at the pleasure of the governor, including a person from a minority culture to represent the state's minority communities, at least one person to represent small towns and rural areas, at least one person representing a state-wide historic preservation organization, and at least one person representing a state historical society.

(2) The chairperson of the commission shall be appointed by the governor from among the citizen members.

(3) The commission shall meet at such times as it is called by the governor or by the chairperson of the commission. [1985 c 291 § 1; 1984 c 120 § 1; 1982 c 90 § 2.]

27.60.030 Travel expenses. Subject to legislative appropriation or grant, nonlegislative members of the commission shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060 as now or hereafter amended. Legislative members shall be reimbursed as provided in RCW 44.04.120 as now or hereafter amended. [1982 c 90 § 3.]

27.60.040 Duties of commission—Program for centennial. The 1989 Washington centennial commission shall develop a comprehensive program for celebrating the centennial of Washington's admission to the union in 1889. The program shall be developed to represent the contributions of all peoples and cultures to Washington state history and to the maximum feasible extent shall be designed to encourage and support participation in the centennial by all interested communities in the state. Program elements shall include:

(1) An annual report to the governor and the legislature incorporating the commission's specific recommendations for the centennial celebration. The report shall recommend projects and activities including, but not limited to:

(a) Restoration of historic properties, with emphasis on those properties appropriate for use in the observance of the centennial;

(b) State and local historic preservation programs and activities;

(c) State and local archaeological programs and activities;

(d) Publications, films, and other educational materials;

(e) Bibliographical and documentary projects;

(f) Conferences, lectures, seminars, and other programs;

(g) Museum, library, cultural center, and park improvements, services, and exhibits, including mobile exhibits;

(h) Destination tourism attractions. Such destination tourism attractions (i) shall be based upon the heritage of the state, (ii) shall be sponsored and owned by the state, a municipal corporation thereof, or a nonprofit corporation which has qualified under section 501(c)(3) of the federal internal revenue code, and (iii) shall satisfy economic development criteria established in cooperation with the director of trade and economic development in accordance

with the administrative procedure act, chapter 34.05 RCW; and

(i) Ceremonies and celebrations.

(2) The implementation of programs as supported by legislative appropriation, gifts and grants provided for the purposes of this chapter, and earned income as provided in *RCW 27.60.060, for a Pacific celebration, centennial games, centennial publications, audio-visual productions, and local celebrations throughout the state. [1987 c 195 § 1; 1985 c 291 § 2; 1982 c 90 § 4.]

*Reviser's note: RCW 27.60.060 was repealed by 1991 sp.s. c 13 § 122, effective July 1, 1991.

27.60.050 Staff for the commission. The commission may employ a staff to implement this chapter, subject to legislative appropriation or grant. The governor may designate an agency of state government for additional staff support. [1982 c 90 § 5.]

27.60.070 Program to observe anniversaries of adoption of federal and state Constitutions. (1) The 1989 Washington centennial commission shall implement or assist in the implementation of a program to observe the two hundredth anniversary of the adoption of the United States Constitution and the one hundredth anniversary of the adoption of the state Constitution. This program shall be designed to promote public education concerning the United States Constitution and the state Constitution and shall include the development of opportunities to explore the relationship between the federal and state Constitutions.

(2) In carrying out its responsibilities under this section, the commission may cooperate with, assist, or sponsor private organizations which are conducting programs consistent with this chapter. Such assistance may include securing the necessary recognition, support, and financial resources to ensure implementation of these educational programs on a state-wide basis.

(3) The commission may appoint an advisory committee for the purpose of advising the commission on matters relating to its duties under this section. [1985 c 291 § 4.]

27.60.080 State centennial license plates—Distribution of revenues—Expiration of section. In support of centennial activities of the centennial commission, and as provided for in RCW 46.16.650, revenues shall be made available by appropriation to the centennial commission. One-half of the moneys so provided shall be distributed to counties in the state for use by their respective county centennial commissions or committees. Distribution of such moneys shall be made by the 1989 Washington centennial commission according to rules adopted by the commission. The rules shall provide for distribution to the respective counties on the basis of the number of centennial plates issued to residents in those counties, with minimum amounts established to be distributed to those counties with small populations, regardless of the number of centennial plates issued.

The remaining one-half of the moneys shall be used for funding projects deemed to be of state-wide significance by the centennial commission in accordance with rules adopted by the commission.

This section shall expire on December 31, 1993. Any funds remaining in the centennial commission account on that date shall revert to the general fund. [1986 c 280 § 3.]

27.60.090 Use of logos, emblems, slogans, etc., adopted by commission—Limitations—Penalties. (1) Except as authorized by the commission in writing, the manufacture, reproduction, or use of any logos, emblems, symbols, slogans, or marks originated under and adopted by authority of the commission in connection with the commemoration and celebration of the 1989 Washington state centennial, or any facsimile thereof, or any combination or simulation thereof tending to suggest official connection with the centennial or centennial activities, shall constitute unfair practice under chapter 19.86 RCW. At the request of the commission, the attorney general shall bring such action as may be necessary under chapter 19.86 RCW, including but not limited to action to recover all profits from unauthorized use of centennial insignia and marks.

(2) Except as authorized by the commission in writing, any person or entity who knowingly or wilfully manufactures, reproduces, or uses any logos, emblems, symbols, slogans or marks originated under and adopted by authority of the commission in connection with the commemoration and celebration of the 1989 Washington state centennial, or any facsimile thereof, or any combination or simulation thereof tending to suggest official connection with the centennial or centennial activities, shall be guilty of a gross misdemeanor.

(3) Enforcement action under subsection (1) or (2) of this section is authorized only with respect to logos, emblems, symbols, slogans, or marks for which notice of adoption by the commission has been published in the Washington state register.

(4) *This act shall not be construed to prevent the commission from seeking such other remedies as it may be entitled to under applicable state or federal trademark or copyright registration laws with respect to any symbol or mark. [1986 c 157 § 2.]

*Reviser's note: This act consists of this section and the note following this section.

Legislative intent—1986 c 157: "The legislature intends that the celebration of the centennial should be of high quality, and that the centennial may generate revenues to help support such programs and plans. The legislature is concerned, as other states' legislatures and the congress have been, that large but transitory celebrations such as the bicentennial, Olympic games, or centennials, may present an opportunity for inappropriate commercial activity or outright theft of the valuable public property represented by the celebration and its associated symbols. To this end, it is declared to be in the public interest to provide for the protection of officially adopted centennial symbols, marks, and graphic insignia, and to assist the commission with the prevention of unauthorized use of such symbols." [1986 c 157 § 1.]

27.60.900 Termination of commission. The 1989 Washington centennial commission as established by this chapter shall cease to exist on June 30, 1990. [1989 c 82 § 3; 1985 c 268 § 3; 1982 c 90 § 6.]

Findings—1989 c 82: See note following RCW 27.34.300.

Title 28A

COMMON SCHOOL PROVISIONS

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Chapter 28A.150

GENERAL PROVISIONS

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DEFINITIONS

28A.150.010 Public schools. Public schools shall mean the common schools as referred to in Article IX of the state Constitution and those schools and institutions of learning having a curriculum below the college or university level as now or may be established by law and maintained at public expense. [1969 ex.s. c 223 § 28A.01.055. Formerly RCW 28A.01.055.]

28A.150.020 Common schools. "Common schools" means schools maintained at public expense in each school district and carrying on a program from kindergarten through the twelfth grade or any part thereof including vocational educational courses otherwise permitted by law. [1969 ex.s.

c 223 § 28A.01.060. Prior: 1909 c 97 p 261 § 1, part; RRS § 4680, part; prior: 1897 c 118 § 64, part; 1890 p 371 § 44, part. Formerly RCW 28A.01.060, 28.58.190, part, 28.01.060.]

28A.150.030 School day. A school day shall mean each day of the school year on which pupils enrolled in the common schools of a school district are engaged in educational activity planned by and under the direction of the school district staff, as directed by the administration and board of directors of the district. [1971 ex.s. c 161 § 1; 1969 ex.s. c 223 § 28A.01.010. Prior: (i) 1909 c 97 p 262 § 3, part; RRS § 4687, part; prior: 1903 c 104 § 22, part; 1897 c 118 § 66, part; 1890 p 372 § 46. Formerly RCW 28.01.010, part. (ii) 1917 c 127 § 1, part; RRS § 5098, part. Cf. 1911 c 82 § 1, part; 1909 c 97 p 371 subchapter 19, part; 1897 c 118 § 181, part. Formerly RCW 28A.01.010, 28.35.030, part.]

28A.150.040 School year—Beginning—End. The school year shall begin on the first day of September and end with the last day of August: PROVIDED, That any school district may elect to commence the minimum annual school term as required under RCW 28A.150.220 in the month of August of any calendar year and in such case the operation of a school district for such period in August shall be credited by the superintendent of public instruction to the succeeding school year for the purpose of the allocation and distribution of state funds for the support of such school district. [1990 c 33 § 101; 1982 c 158 § 5; 1977 ex.s. c 286 § 1; 1975-'76 2nd ex.s. c 118 § 22; 1969 ex.s. c 223 § 28A.01.020. Prior: 1909 c 97 p 262 § 4; RRS § 4688; prior: 1897 c 118 § 67; 1890 p 373 § 49. Formerly RCW 28A.01.020, 28.01.020.]

Severability—1982 c 158: See note following RCW 28A.150.220.

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

28A.150.050 School holidays. The following are school holidays, and school shall not be taught on these days: Sunday; the first day of January, commonly called New Year's Day; the third Monday of January, being celebrated as the anniversary of the birth of Martin Luther King, Jr.; the third Monday in February to be known as Presidents' Day and to be celebrated as the anniversary of the births of Abraham Lincoln and George Washington; the last Monday in May, commonly known as Memorial Day; the fourth day of July, being the anniversary of the Declaration of Independence; the first Monday in September, to be known as Labor Day; the eleventh day of November, to be known as Veterans' Day, the fourth Thursday in November, commonly known as Thanksgiving Day; the day immediately following Thanksgiving Day; the twenty-fifth day of December, commonly called Christmas Day: PROVIDED, That no reduction from the teacher's time or salary shall be made by reason of the fact that a school day happens to be one of the days referred to in this section as a day on which school shall not be taught. [1989 c 233 § 11; 1985 c 189 § 2; 1984 c 92 § 1; 1975-'76 2nd ex.s. c 24 § 2; 1973 c 32 § 1; 1969 ex.s. c 283 § 13. Prior: 1969 ex.s. c 223 § 28A.02.060;

prior: 1955 c 20 § 2; 1909 c 97 p 308 § 6; RRS § 4853. Formerly RCW 28A.02.061, 28A.02.060, 28.02.060.]

Severability—1969 ex.s. c 283: "If any provision of this 1969 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1969 ex.s. c 283 § 59.]

"Legal holidays": RCW 1.16.050.

28A.150.060 Certificated employee. The term "certificated employee" as used in RCW 28A.195.010, 28A.150.060, 28A.150.260, 28A.405.100, 28A.405.210, 28A.405.240, 28A.405.250, 28A.405.300 through 28A.405.380, and chapter 41.59 RCW, shall include those persons who hold certificates as authorized by rule or regulation of the state board of education or the superintendent of public instruction. [1990 c 33 § 102; 1977 ex.s. c 359 § 17; 1975 1st ex.s. c 288 § 21; 1973 1st ex.s. c 105 § 1. Formerly RCW 28A.01.130.]

Effective date—Severability—1977 ex.s. c 359: See notes following RCW 28A.150.200.

Effective dates—1975 1st ex.s. c 288: See RCW 41.59.940.

Severability—1975 1st ex.s. c 288: See RCW 41.59.950.

Basic Education Act, RCW 28A.150.060 as part of: RCW 28A.150.200.

Construction of chapter—Employee's rights preserved: RCW 41.59.920.

Construction of chapter—Employer's responsibilities and rights preserved: RCW 41.59.930.

28A.150.070 General public school system—Administration. The administration of the public school system shall be entrusted to such state and local officials, boards, and committees as the state Constitution and the laws of the state shall provide. [1969 ex.s. c 223 § 28A.02.020. Prior: 1909 c 97 p 230 § 2; RRS § 4519; prior: 1897 c 118 § 19; 1890 p 348 § 2; Code 1881 §§ 3154, 3155; 1861 p 55 § 1. Formerly RCW 28A.02.020, 28.02.020.]

28A.150.080 Superintendent of the school district. "Superintendent of the school district", if there be no such superintendent, shall mean such other administrative or certificated employee as the school district board of directors shall so designate. [1969 ex.s. c 223 § 28A.01.100. Formerly RCW 28A.01.100.]

28A.150.100 Basic education certificated instructional staff—Definition—Ratio to students. (1) For the purposes of this section and RCW 28A.150.410 and 28A.400.200, "basic education certificated instructional staff" shall mean all full time equivalent certificated instructional staff in the following programs as defined for state-wide school district accounting purposes: Basic education, secondary vocational education, general instructional support, and general supportive services.

(2) In the 1988-89 school year and thereafter, each school district shall maintain a ratio of at least forty-six basic education certificated instructional staff to one thousand annual average full time equivalent students. [1990 c 33 § 103; 1987 1st ex.s. c 2 § 203. Formerly RCW 28A.41.110.]

Intent—Severability—Effective date—1987 1st ex.s. c 2: See notes following RCW 84.52.0531.

THE BASIC EDUCATION ACT

28A.150.200 Basic Education Act—Program contents—As meeting constitutional requirements. *This 1977 amendatory act shall be known and may be cited as "The Washington Basic Education Act of 1977." The program evolving from the Basic Education Act shall include (1) the goal of the school system as defined in RCW 28A.150.210, (2) those program requirements enumerated in RCW 28A.150.220, and (3) the determination and distribution of state resources as defined in RCW 28A.150.250 and 28A.150.260.

The requirements of the Basic Education Act are deemed by the legislature to comply with the requirements of Article IX, section 1 of the state Constitution, which states that "It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex," and are adopted pursuant to Article IX, section 2 of the state Constitution, which states that "The legislature shall provide for a general and uniform system of public schools." [1990 c 33 § 104; 1977 ex.s. c 359 § 1. Formerly RCW 28A.58.750.]

***Reviser's note:** For codification of "this 1977 amendatory act" [1977 ex.s. c 359], see Codification Tables, Volume 0.

Effective date—1977 ex.s. c 359: "This 1977 amendatory act shall take effect September 1, 1978." [1977 ex.s. c 359 § 22.]

Severability—1977 ex.s. c 359: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 359 § 21.]

The above two annotations apply to 1977 ex.s. c 359. For codification of that act, see Codification Tables, Volume 0.

28A.150.205 Definition. (Contingent effective date.) Unless the context clearly requires otherwise, the definition in this section applies throughout RCW 28A.150.200 through 28A.150.295.

"Instructional hours" means those hours students are provided the opportunity to engage in educational activity planned by and under the direction of school district staff, as directed by the administration and board of directors of the district, inclusive of intermissions for class changes, recess, and teacher/parent-guardian conferences that are planned and scheduled by the district for the purpose of discussing students' educational needs or progress, and exclusive of time actually spent for meals. [1992 c 141 § 502.]

Reviser's note: See note following RCW 28A.630.885.

Contingent effective date—1992 c 141 §§ 501-507: See note following RCW 28A.150.210.

Findings—Part headings—Severability—1992 c 141: See notes following RCW 28A.410.040.

28A.150.210 Basic Education Act—Goal. (Contingent expiration date.) The goal of the Basic Education Act for the schools of the state of Washington set forth in *this 1977 amendatory act shall be to provide students with the opportunity to achieve those skills which are generally recognized as requisite to learning. Those skills shall include the ability:

(1) To distinguish, interpret and make use of words, numbers and other symbols, including sound, colors, shapes and textures;

(2) To organize words and other symbols into acceptable verbal and nonverbal forms of expression, and numbers into their appropriate functions;

(3) To perform intellectual functions such as problem solving, decision making, goal setting, selecting, planning, predicting, experimenting, ordering and evaluating; and

(4) To use various muscles necessary for coordinating physical and mental functions. [1977 ex.s. c 359 § 2. Formerly RCW 28A.58.752.]

***Reviser's note:** For codification of "this 1977 amendatory act" [1977 ex.s. c 359], see Codification Tables, Volume 0.

Effective date—Severability—1977 ex.s. c 359: See notes following RCW 28A.150.200.

28A.150.210 Basic Education Act—Goal. (Contingent effective date.) The goal of the Basic Education Act for the schools of the state of Washington set forth in this chapter shall be to provide students with the opportunity to master the essential academic learning requirements necessary for their roles as citizens and potential participants in the economic marketplace and in the marketplace of ideas identified by the commission established in *RCW 28A.630.885. [1992 c 141 § 501; 1977 ex.s. c 359 § 2. Formerly RCW 28A.58.752.]

***Reviser's note:** See note following RCW 28A.630.885.

Contingent effective date—1992 c 141 §§ 501-507: "Sections 501 through 507 of this act shall take effect September 1, 1998. However, these sections shall not take effect if, by September 1, 1998, a law is enacted stating that a school accountability and academic assessment system is not in place." [1992 c 141 § 509.]

Findings—Part headings—Severability—1992 c 141: See notes following RCW 28A.410.040.

Effective date—Severability—1977 ex.s. c 359: See notes following RCW 28A.150.200.

28A.150.220 Basic Education Act—Definitions—Program requirements—Program accessibility—Rules and regulations. (Contingent expiration date.) (1) For the purposes of this section and RCW 28A.150.250 and 28A.150.260:

(a) The term "total program hour offering" shall mean those hours when students are provided the opportunity to engage in educational activity planned by and under the direction of school district staff, as directed by the administration and board of directors of the district, inclusive of intermissions for class changes, recess and teacher/parent-guardian conferences which are planned and scheduled by the district for the purpose of discussing students' educational needs or progress, and exclusive of time actually spent for meals.

(b) "Instruction in work skills" shall include instruction in one or more of the following areas: Industrial arts, home and family life education, business and office education, distributive education, agricultural education, health occupations education, vocational education, trade and industrial education, technical education and career education.

(2) Satisfaction of the basic education goal identified in RCW 28A.150.210 shall be considered to be implemented by the following program requirements:

(a) Each school district shall make available to students in kindergarten at least a total program offering of four hundred fifty hours. The program shall include reading, arithmetic, language skills and such other subjects and such activities as the school district shall determine to be appropriate for the education of the school district's students enrolled in such program;

(b) Each school district shall make available to students in grades one through three, at least a total program hour offering of two thousand seven hundred hours. A minimum of ninety-five percent of the total program hour offerings shall be in the basic skills areas of reading/language arts (which may include foreign languages), mathematics, social studies, science, music, art, health and physical education. The remaining five percent of the total program hour offerings may include such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades;

(c) Each school district shall make available to students in grades four through six at least a total program hour offering of two thousand nine hundred seventy hours. A minimum of ninety percent of the total program hour offerings shall be in the basic skills areas of reading/language arts (which may include foreign languages), mathematics, social studies, science, music, art, health and physical education. The remaining ten percent of the total program hour offerings may include such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades;

(d) Each school district shall make available to students in grades seven through eight, at least a total program hour offering of one thousand nine hundred eighty hours. A minimum of eighty-five percent of the total program hour offerings shall be in the basic skills areas of reading/language arts (which may include foreign languages), mathematics, social studies, science, music, art, health and physical education. A minimum of ten percent of the total program hour offerings shall be in the area of work skills. The remaining five percent of the total program hour offerings may include such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades;

(e) Each school district shall make available to students in grades nine through twelve at least a total program hour offering of four thousand three hundred twenty hours. A minimum of sixty percent of the total program hour offerings shall be in the basic skills areas of language arts, foreign language, mathematics, social studies, science, music, art, health and physical education. A minimum of twenty percent of the total program hour offerings shall be in the area of work skills. The remaining twenty percent of the total program hour offerings may include traffic safety or such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades, with not less than one-half thereof in basic skills and/or work skills: PROVIDED, That each school district shall have the option of including grade nine within the program hour offering requirements of grades seven and eight so long as such requirements for grades seven through nine are increased to two thousand nine hundred seventy hours and such requirements for grades ten

through twelve are decreased to three thousand two hundred forty hours.

(3) In order to provide flexibility to the local school districts in the setting of their curricula, and in order to maintain the intent of this legislation, which is to stress the instruction of basic skills and work skills, any local school district may establish minimum course mix percentages that deviate by up to five percentage points above or below those minimums required by subsection (2) of this section, so long as the total program hour requirement is still met.

(4) Nothing contained in subsection (2) of this section shall be construed to require individual students to attend school for any particular number of hours per day or to take any particular courses.

(5) Each school district's kindergarten through twelfth grade basic educational program shall be accessible to all students who are five years of age, as provided by RCW 28A.225.160, and less than twenty-one years of age and shall consist of a minimum of one hundred eighty school days per school year in such grades as are conducted by a school district, and one hundred eighty half-days of instruction, or equivalent, in kindergarten: PROVIDED, That effective May 1, 1979, a school district may schedule the last five school days of the one hundred and eighty day school year for noninstructional purposes in the case of students who are graduating from high school, including, but not limited to, the observance of graduation and early release from school upon the request of a student, and all such students may be claimed as a full time equivalent student to the extent they could otherwise have been so claimed for the purposes of RCW 28A.150.250 and 28A.150.260.

(6) The state board of education shall adopt rules to implement and ensure compliance with the program requirements imposed by this section, RCW 28A.150.250 and 28A.150.260, and such related supplemental program approval requirements as the state board may establish: PROVIDED, That each school district board of directors shall establish the basis and means for determining and monitoring the district's compliance with the basic skills and work skills percentage and course requirements of this section. The certification of the board of directors and the superintendent of a school district that the district is in compliance with such basic skills and work skills requirements may be accepted by the superintendent of public instruction and the state board of education.

(7) Handicapped education programs, vocational-technical institute programs, state institution and state residential school programs, all of which programs are conducted for the common school age, kindergarten through secondary school program students encompassed by this section, shall be exempt from the basic skills and work skills percentage and course requirements of this section in order that the unique needs, abilities or limitations of such students may be met.

(8) Any school district may petition the state board of education for a reduction in the total program hour offering requirements for one or more of the grade level groupings specified in this section. The state board of education shall grant all such petitions that are accompanied by an assurance that the minimum total program hour offering requirements in one or more other grade level groupings will be exceeded concurrently by no less than the number of hours of the

reduction. [1990 c 33 § 105; 1982 c 158 § 1; 1979 ex.s. c 250 § 1; 1977 ex.s. c 359 § 3. Formerly RCW 28A.58.754.]

Severability—1982 c 158: "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." [1982 c 158 § 8.] For codification of 1982 c 158, see Codification Tables, Volume 0.

Effective date—1979 ex.s. c 250: "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 except as otherwise provided in subsection (5) of section 1, and section 2 of this amendatory act, shall take effect August 15, 1979." [1979 ex.s. c 250 § 10.]

Severability—1979 ex.s. c 250: "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." [1979 ex.s. c 250 § 11.]

The above two annotations apply to 1979 ex.s. c 250. For codification of that act, see Codification Tables, Volume 0.

Effective date—Severability—1977 ex.s. c 359: See notes following RCW 28A.150.200.

28A.150.220 Basic Education Act—Program requirements—Program accessibility—Rules. (Contingent effective date.) (1) Satisfaction of the basic education program requirements identified in RCW 28A.150.210 shall be considered to be implemented by the following program:

(a) Each school district shall make available to students enrolled in kindergarten at least a total instructional offering of four hundred fifty hours. The program shall include instruction in the essential academic learning requirements under *RCW 28A.630.885 and such other subjects and such activities as the school district shall determine to be appropriate for the education of the school district's students enrolled in such program;

(b) Each school district shall make available to students enrolled in grades one through twelve, at least a district-wide annual average total instructional hour offering of one thousand hours. The state board of education may define alternatives to classroom instructional time for students in grades nine through twelve enrolled in alternative learning experiences. The state board of education shall establish rules to determine annual average instructional hours for districts including fewer than twelve grades. The program shall include the essential academic learning requirements under *RCW 28A.630.885 and such other subjects and such activities as the school district shall determine to be appropriate for the education of the school district's students enrolled in such group.

(2) Nothing contained in subsection (1) of this section shall be construed to require individual students to attend school for any particular number of hours per day or to take any particular courses.

(3) Each school district's kindergarten through twelfth grade basic educational program shall be accessible to all students who are five years of age, as provided by RCW 28A.225.160, and less than twenty-one years of age and shall consist of a minimum of one hundred eighty school days per school year in such grades as are conducted by a school district, and one hundred eighty half-days of instruction, or equivalent, in kindergarten: PROVIDED, That effective May 1, 1979, a school district may schedule the last five school days of the one hundred and eighty day school year for noninstructional purposes in the case of students who are

graduating from high school, including, but not limited to, the observance of graduation and early release from school upon the request of a student, and all such students may be claimed as a full time equivalent student to the extent they could otherwise have been so claimed for the purposes of RCW 28A.150.250 and 28A.150.260.

(4) The state board of education shall adopt rules to implement and ensure compliance with the program requirements imposed by this section, RCW 28A.150.250 and 28A.150.260, and such related supplemental program approval requirements as the state board may establish. [1992 c 141 § 503; 1990 c 33 § 105; 1982 c 158 § 1; 1979 ex.s. c 250 § 1; 1977 ex.s. c 359 § 3. Formerly RCW 28A.58.754.]

***Reviser's note:** See note following RCW 28A.630.885.

Contingent effective date—1992 c 141 §§ 501-507: See note following RCW 28A.150.210.

Findings—Part headings—Severability—1992 c 141: See notes following RCW 28A.410.040.

Severability—1982 c 158: "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." [1982 c 158 § 8.] For codification of 1982 c 158, see Codification Tables, Volume 0.

Effective date—1979 ex.s. c 250: "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 except as otherwise provided in subsection (5) of section 1, and section 2 of this amendatory act, shall take effect August 15, 1979." [1979 ex.s. c 250 § 10.]

Severability—1979 ex.s. c 250: "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." [1979 ex.s. c 250 § 11.]

The above two annotations apply to 1979 ex.s. c 250. For codification of that act, see Codification Tables, Volume 0.

Effective date—Severability—1977 ex.s. c 359: See notes following RCW 28A.150.200.

28A.150.230 Basic Education Act—District school directors as accountable for proper operation of district—Scope—Responsibilities—Publication of guide. (1) It is the intent and purpose of this section to guarantee that each common school district board of directors, whether or not acting through its respective administrative staff, be held accountable for the proper operation of their district to the local community and its electorate. In accordance with the provisions of Title 28A RCW, as now or hereafter amended, each common school district board of directors shall be vested with the final responsibility for the setting of policies ensuring quality in the content and extent of its educational program and that such program provide students with the opportunity to achieve those skills which are generally recognized as requisite to learning.

(2) In conformance with the provisions of Title 28A RCW, as now or hereafter amended, it shall be the responsibility of each common school district board of directors to adopt policies to:

(a) Establish performance criteria and an evaluation process for its certificated personnel, including administrative staff, and for all programs constituting a part of such district's curriculum;

(b) Determine the final assignment of staff, certificated or classified, according to board enumerated classroom and program needs;

(c) Determine the amount of instructional hours necessary for any student to acquire a quality education in such district, in not less than an amount otherwise required in RCW 28A.150.220, or rules and regulations of the state board of education;

(d) Determine the allocation of staff time, whether certificated or classified;

(e) Establish final curriculum standards consistent with law and rules and regulations of the state board of education, relevant to the particular needs of district students or the unusual characteristics of the district, and ensuring a quality education for each student in the district; and

(f) Evaluate teaching materials, including text books, teaching aids, handouts, or other printed material, in public hearing upon complaint by parents, guardians or custodians of students who consider dissemination of such material to students objectionable.

(3) In keeping with the accountability purpose expressed in this section and to insure that the local community and electorate have access to information on the educational programs in the school districts, each school district's board of directors shall annually publish a descriptive guide to the district's common schools. This guide shall be made available at each school in the district for examination by the public. The guide shall include, but not be limited to, the following:

(a) Criteria used for written evaluations of staff members pursuant to RCW 28A.405.100;

(b) A summary of program objectives pursuant to *RCW 28A.320.210;

(c) Results of comparable testing for all schools within the district; and

(d) Budget information which will include the following:

(i) Student enrollment;

(ii) Number of full time equivalent personnel per school in the district itemized according to classroom teachers, instructional support, and building administration and support services, including itemization of such personnel by program;

(iii) Number of full time equivalent personnel assigned in the district to central administrative offices, itemized according to instructional support, building and central administration, and support services, including itemization of such personnel by program;

(iv) Total number of full time equivalent personnel itemized by classroom teachers, instructional support, building and central administration, and support services, including itemization of such personnel by program; and

(v) Special levy budget request presented by program and expenditure for purposes over and above those requirements identified in RCW 28A.150.220. [1991 c 61 § 1; 1990 c 33 § 106; 1979 ex.s. c 250 § 7; 1977 ex.s. c 359 § 18. Formerly RCW 28A.58.758.]

***Reviser's note:** RCW 28A.320.210 was repealed by 1992 c 141 § 304.

Effective date—Severability—1979 ex.s. c 250: See notes following RCW 28A.150.220.

Effective date—Severability—1977 ex.s. c 359: See notes following RCW 28A.150.200.

28A.150.240 Basic Education Act—Certificated teaching and administrative staff as accountable for classroom teaching—Scope—Responsibilities—Penalty.

(1) It is the intended purpose of this section to guarantee that the certificated teaching and administrative staff in each common school district be held accountable for the proper and efficient conduct of classroom teaching in their school which will provide students with the opportunity to achieve those skills which are generally recognized as requisite to learning.

(2) In conformance with the other provisions of Title 28A RCW, it shall be the responsibility of the certificated teaching and administrative staff in each common school to:

(a) Implement the district's prescribed curriculum and enforce, within their area of responsibility, the rules and regulations of the school district, the state superintendent of public instruction, and the state board of education, taking into due consideration individual differences among students, and maintain and render appropriate records and reports pertaining thereto.

(b) Maintain good order and discipline in their classrooms at all times.

(c) Hold students to a strict accountability while in school for any disorderly conduct while under their supervision.

(d) Require excuses from the parents, guardians, or custodians of minor students in all cases of absence, late arrival to school, or early dismissal.

(e) Give careful attention to the maintenance of a healthful atmosphere in the classroom.

(f) Give careful attention to the safety of the student in the classroom and report any doubtful or unsafe conditions to the building administrator.

(g) Evaluate each student's educational growth and development and make periodic reports thereon to parents, guardians, or custodians and to school administrators.

Failure to carry out such requirements as set forth in subsection (2) (a) through (g) above shall constitute sufficient cause for discharge of any member of such teaching or administrative staff. [1979 ex.s. c 250 § 5; 1977 ex.s. c 359 § 19. Formerly RCW 28A.58.760.]

Effective date—Severability—1979 ex.s. c 250: See notes following RCW 28A.150.220.

Effective date—Severability—1977 ex.s. c 359: See notes following RCW 28A.150.200.

28A.150.250 Annual basic education allocation of funds according to average FTE student enrollment—Student/teacher ratio standard. From those funds made available by the legislature for the current use of the common schools, the superintendent of public instruction shall distribute annually as provided in RCW 28A.510.250 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 28A.520.010 and 28A.520.020, 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 shall be one hundred eighty half days of instruction, or the equivalent as provided in RCW 28A.150.220.

Basic education shall be considered to be fully funded by those amounts of dollars appropriated by the legislature pursuant to RCW 28A.150.250 and 28A.150.260 to fund those program requirements identified in RCW 28A.150.220 in accordance with the formula and ratios provided in RCW 28A.150.260 and those amounts of dollars appropriated by the legislature to fund the salary requirements of RCW 28A.150.100 and 28A.150.410.

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.

If a school district's basic education program fails to meet the basic education requirements enumerated in RCW 28A.150.250, 28A.150.260, and 28A.150.220, 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. [1990 c 33 § 107; 1987 1st ex.s. c 2 § 201; 1986 c 144 § 1; 1983 c 3 § 30; 1982 c 158 § 3; 1982 c 158 § 2; 1980 c 154 § 12; 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 28A.41.130, 28.41.130.]

Intent—Severability—Effective date—1987 1st ex.s. c 2: See notes following RCW 84.52.0531.

Effective date—1986 c 144: "Section 1 of this act shall be effective September 1, 1987." [1986 c 144 § 2.]

Severability—1982 c 158: See note following RCW 28A.150.220.

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

Effective date—Severability—1979 ex.s. c 250: See notes following RCW 28A.150.220.

Effective date—Severability—1977 ex.s. c 359: See notes following RCW 28A.150.200.

Emergency—Effective date—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—1972 ex.s. c 124: "This 1972 amendatory act is necessary for the immediate preservation of the public peace, health and safety and the support of the state government and its existing public institutions, and sections 2, 3, 4, 6, 7 and 11 shall take effect immediately [February 25, 1972]; sections 1, 8, 9 and 10 hereof shall take effect July 1, 1973; and section 5 hereof shall take effect July 1, 1974." [1972 ex.s. c 124 § 12.] For codification of 1972 ex.s. c 124, see Codification Tables, Volume 0.

Severability—1972 ex.s. c 124: "If any provision of this 1972 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1972 ex.s. c 124 § 13.]

Effective date—1972 ex.s. c 105: "This act except for section 4 will take effect July 1, 1973." [1972 ex.s. c 105 § 5.] Section 4 was codified as RCW 28A.41.170.

Severability—1972 ex.s. c 105: "If any provision of this 1972 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1972 ex.s. c 105 § 6.]

Basic Education Act, RCW 28A.150.250 as part of: RCW 28A.150.200.

Distribution of forest reserve funds—As affects basic education allocation: RCW 28A.520.020.

28A.150.260 Annual basic education allocation of funds according to average FTE student enrollment—Procedure to determine distribution formula—Submittal to legislature—Enrollment, FTE student, certificated and classified staff, defined—Minimum classroom contact hours—Waiver. (Contingent expiration date.) The basic education allocation for each annual average full time equivalent student shall be determined in accordance with the following procedures:

(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula based on a ratio of students to staff for the distribution of a basic education allocation for each annual average full time equivalent student enrolled in a common school. The distribution formula shall have the primary objective of equalizing educational opportunities and shall provide appropriate recognition of the following costs among the various districts within the state:

- (a) Certificated instructional staff and their related costs;
- (b) Certificated administrative staff and their related costs;
- (c) Classified staff and their related costs;
- (d) Nonsalary costs;
- (e) Extraordinary costs of remote and necessary schools and small high schools, including costs of additional certificated and classified staff; and
- (f) The attendance of students pursuant to RCW 28A.335.160 and 28A.225.250 who do not reside within the servicing school district.

(2)(a) This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature. The formula shall be for allocation purposes only. While the legislature intends that the allocations for additional instructional staff be used to increase the ratio of such staff to

students, nothing in this section shall require districts to reduce the number of administrative staff below existing levels.

(b) The formula adopted by the legislature shall reflect the following ratios at a minimum: (i) Forty-nine certificated instructional staff to one thousand annual average full time equivalent students enrolled in grades kindergarten through three; (ii) forty-six certificated instructional staff to one thousand annual average full time equivalent students in grades four through twelve; (iii) four certificated administrative staff to one thousand annual average full time equivalent students in grades kindergarten through twelve; and (iv) sixteen and sixty-seven one-hundredths classified personnel to one thousand annual average full time equivalent students enrolled in grades kindergarten through twelve.

(c) In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous school year shall remain in effect: PROVIDED, That the distribution formula developed pursuant to this section shall be for state apportionment and equalization purposes only and shall not be construed as mandating specific operational functions of local school districts other than those program requirements identified in RCW 28A.150.220 and 28A.150.100. The enrollment of any district shall be the annual average number of full time equivalent students and part time students as provided in RCW 28A.150.350, enrolled on the first school day of each month and shall exclude full time equivalent handicapped students recognized for the purposes of allocation of state funds for programs under RCW 28A.155.010 through 28A.155.100. The definition of full time equivalent student shall be determined by rules and regulations of the superintendent of public instruction: PROVIDED, That the definition shall be included as part of the superintendent's biennial budget request: PROVIDED, FURTHER, That any revision of the present definition shall not take effect until approved by the house appropriations committee and the senate ways and means committee: PROVIDED, FURTHER, That the office of financial management shall make a monthly review of the superintendent's reported full time equivalent students in the common schools in conjunction with RCW 43.62.050.

(3)(a) Certificated instructional staff shall include those persons employed by a school district who are nonsupervisory employees within the meaning of RCW 41.59.020(8): PROVIDED, That in exceptional cases, people of unusual competence but without certification may teach students so long as a certificated person exercises general supervision: PROVIDED, FURTHER, That the hiring of such noncertificated people shall not occur during a labor dispute and such noncertificated people shall not be hired to replace certificated employees during a labor dispute.

(b) Certificated administrative staff shall include all those persons who are chief executive officers, chief administrative officers, confidential employees, supervisors, principals, or assistant principals within the meaning of RCW 41.59.020(4).

(4) Each annual average full time equivalent certificated classroom teacher's direct classroom contact hours shall average at least twenty-five hours per week. Direct classroom contact hours shall be exclusive of time required to be

spent for preparation, conferences, or any other nonclassroom instruction duties. Up to two hundred minutes per week may be deducted from the twenty-five contact hour requirement, at the discretion of the school district board of directors, to accommodate authorized teacher/parent-guardian conferences, recess, passing time between classes, and informal instructional activity. Implementing rules to be adopted by the state board of education pursuant to RCW 28A.150.220(4) shall provide that compliance with the direct contact hour requirement shall be based upon teachers' normally assigned weekly instructional schedules, as assigned by the district administration. Additional record-keeping by classroom teachers as a means of accounting for contact hours shall not be required. Waivers from contact hours may be requested under RCW 28A.305.140. [1992 c 141 § 303; 1991 c 116 § 10; 1990 c 33 § 108; 1987 1st ex.s. c 2 § 202; 1985 c 349 § 5; 1983 c 229 § 1; 1979 ex.s. c 250 § 3; 1979 c 151 § 12; 1977 ex.s. c 359 § 5; 1969 ex.s. c 244 § 14. Prior: 1969 ex.s. c 217 § 3; 1969 c 130 § 7; 1969 ex.s. c 223 § 28A.41.140; prior: 1965 ex.s. c 154 § 3. Formerly RCW 28A.41.140, 28.41.140.]

Findings—Part headings—Severability—1992 c 141: See notes following RCW 28A.410.040.

Intent—Severability—Effective date—1987 1st ex.s. c 2: See notes following RCW 84.52.0531.

Severability—1985 c 349: See note following RCW 28A.630.800.

Effective date—Severability—1979 ex.s. c 250: See notes following RCW 28A.150.220.

Effective date—Severability—1977 ex.s. c 359: See notes following RCW 28A.150.200.

Basic Education Act, RCW 28A.150.260 as part of: RCW 28A.150.200.

Distribution of forest reserve funds—As affects basic education allocation: RCW 28A.520.020.

28A.150.260 Annual basic education allocation of funds according to average FTE student enrollment—Procedure to determine distribution formula—Submittal to legislature—Enrollment, FTE student, certificated and classified staff, defined. (Contingent effective date.) The basic education allocation for each annual average full time equivalent student shall be determined in accordance with the following procedures:

(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula based on a ratio of students to staff for the distribution of a basic education allocation for each annual average full time equivalent student enrolled in a common school. The distribution formula shall have the primary objective of equalizing educational opportunities and shall provide appropriate recognition of the following costs among the various districts within the state:

- (a) Certificated instructional staff and their related costs;
- (b) Certificated administrative staff and their related costs;
- (c) Classified staff and their related costs;
- (d) Nonsalary costs;
- (e) Extraordinary costs of remote and necessary schools and small high schools, including costs of additional certificated and classified staff; and
- (f) The attendance of students pursuant to RCW 28A.335.160 and 28A.225.250 who do not reside within the servicing school district.

(2)(a) This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature. The formula shall be for allocation purposes only. While the legislature intends that the allocations for additional instructional staff be used to increase the ratio of such staff to students, nothing in this section shall require districts to reduce the number of administrative staff below existing levels.

(b) The formula adopted by the legislature shall reflect the following ratios at a minimum: (i) Forty-nine certificated instructional staff to one thousand annual average full time equivalent students enrolled in grades kindergarten through three; (ii) forty-six certificated instructional staff to one thousand annual average full time equivalent students in grades four through twelve; (iii) four certificated administrative staff to one thousand annual average full time equivalent students in grades kindergarten through twelve; and (iv) sixteen and sixty-seven one-hundredths classified personnel to one thousand annual average full time equivalent students enrolled in grades kindergarten through twelve.

(c) In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous school year shall remain in effect: PROVIDED, That the distribution formula developed pursuant to this section shall be for state apportionment and equalization purposes only and shall not be construed as mandating specific operational functions of local school districts other than those program requirements identified in RCW 28A.150.220 and 28A.150.100. The enrollment of any district shall be the annual average number of full time equivalent students and part time students as provided in RCW 28A.150.350, enrolled on the first school day of each month and shall exclude full time equivalent handicapped students recognized for the purposes of allocation of state funds for programs under RCW 28A.155.010 through 28A.155.100. The definition of full time equivalent student shall be determined by rules and regulations of the superintendent of public instruction: PROVIDED, That the definition shall be included as part of the superintendent's biennial budget request: PROVIDED, FURTHER, That any revision of the present definition shall not take effect until approved by the house appropriations committee and the senate ways and means committee: PROVIDED, FURTHER, That the office of financial management shall make a monthly review of the superintendent's reported full time equivalent students in the common schools in conjunction with RCW 43.62.050.

(3)(a) Certificated instructional staff shall include those persons employed by a school district who are nonsupervisory employees within the meaning of RCW 41.59.020(8): PROVIDED, That in exceptional cases, people of unusual competence but without certification may teach students so long as a certificated person exercises general supervision: PROVIDED, FURTHER, That the hiring of such noncertificated people shall not occur during a labor dispute and such noncertificated people shall not be hired to replace certificated employees during a labor dispute.

(b) Certificated administrative staff shall include all those persons who are chief executive officers, chief admin-

istrative officers, confidential employees, supervisors, principals, or assistant principals within the meaning of RCW 41.59.020(4). [1992 c 141 § 507; 1992 c 141 § 303; 1991 c 116 § 10; 1990 c 33 § 108; 1987 1st ex.s. c 2 § 202; 1985 c 349 § 5; 1983 c 229 § 1; 1979 ex.s. c 250 § 3; 1979 c 151 § 12; 1977 ex.s. c 359 § 5; 1969 ex.s. c 244 § 14. Prior: 1969 ex.s. c 217 § 3; 1969 c 130 § 7; 1969 ex.s. c 223 § 28A.41.140; prior: 1965 ex.s. c 154 § 3. Formerly RCW 28A.41.140, 28.41.140.]

Reviser's note: See note following RCW 28A.630.885.

Contingent effective date—1992 c 141 §§ 501-507: See note following RCW 28A.150.210.

Findings—Part headings—Severability—1992 c 141: See notes following RCW 28A.410.040.

Intent—Severability—Effective date—1987 1st ex.s. c 2: See notes following RCW 84.52.0531.

Severability—1985 c 349: See note following RCW 28A.630.800.

Effective date—Severability—1979 ex.s. c 250: See notes following RCW 28A.150.220.

Effective date—Severability—1977 ex.s. c 359: See notes following RCW 28A.150.200.

Basic Education Act, RCW 28A.150.260 as part of: RCW 28A.150.200.

Distribution of forest reserve funds—As affects basic education allocation: RCW 28A.520.020.

28A.150.270 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 capital projects fund and/or bond redemption fund. Moneys so credited shall be used solely for school building purposes. [1985 c 7 § 89; 1980 c 154 § 13. Formerly RCW 28A.41.143.]

Purpose—Effective dates—Savings—Disposition of certain funds—Severability—1980 c 154: See notes following chapter 82.45 RCW digest. School funds enumerated—Deposits—Uses: RCW 28A.320.330.

28A.150.280 Reimbursement for acquisition of approved transportation equipment--Method (as amended by 1981 c 265). ~~((Reimbursement for transportation costs shall be in addition to the basic education allocation. Transportation costs shall be reimbursed as follows:~~

~~(1) School districts shall be reimbursed up to one hundred percent of the operational costs for established bus routes for the transportation of students to and from common schools as recommended by the educational service district superintendent or his or her designee, and as approved by the state superintendent: PROVIDED, That commencing with the 1980-81 school year, reimbursement shall be at one hundred percent or as close thereto as reasonably possible; and~~

~~(2))~~ Costs of acquisition of approved transportation equipment purchased prior to September 1, 1982, shall be reimbursed up to one hundred percent of the cost to be reimbursed over the anticipated life of the vehicle, as determined by the state superintendent: PROVIDED, That commencing with the 1980-81 school year, reimbursement shall be at one hundred percent or as close thereto as reasonably possible: PROVIDED FURTHER, That reimbursements for the acquisition of approved transportation equipment received by school districts shall be ~~((held within the general fund exclusively for the))~~ placed in the transportation vehicle fund for the current or future purchase of approved transportation equipment and for major transportation equipment repairs consistent with rules and regulations authorized ~~((and promulgated under RCW 28A.41.170 and chapter 28A.65 RCW))~~ in RCW 28A.160.130. [1990 c 33 § 109; 1981 c 265 § 9; 1981 c 265 § 8; 1977 ex.s. c 359 § 6; 1977 c 80 § 3; 1975 1st ex.s. c 275 § 60; 1972 ex.s. c 85 § 1; 1971 c 48 § 14; 1969 ex.s. c 223 § 28A.41.160. Prior: 1965 ex.s. c 154 § 5. Formerly RCW 28A.41.160, 28.41.160.]

28A.150.280 Reimbursement for transportation costs--Method--Limitations (as amended by 1981 c 343). Reimbursement for transportation costs shall be in addition to the basic education allocation. Transportation costs shall be reimbursed as follows:

(1) School districts shall be reimbursed up to one hundred percent of the operational costs for established bus routes for the transportation of students to and from common schools as recommended by the educational service district superintendent or his or her designee, and as approved by the state superintendent: PROVIDED, That commencing with the 1980-81 school year, reimbursement shall be at one hundred percent or as close thereto as reasonably possible: PROVIDED FURTHER, That commencing on September 1, 1982, no school district shall be reimbursed under this section for any portion of the cost to transport any student, except handicapped children as defined under RCW 28A.155.020, to or from any school other than one which is geographically located nearest or next-nearest to the student's place of residence within the district offering the appropriate grade level, course of study, or special academic program as designated by the local school board: PROVIDED FURTHER, That notwithstanding the provisions of section 94, *chapter 340, Laws of 1981, any moneys not reimbursed to a school district for transportation costs pursuant to this subsection shall be allocated to the school district for block grants under section 100, *chapter 340, Laws of 1981: PROVIDED FURTHER, That the superintendent of public instruction, when so requested by the appropriate educational service district superintendent or his or her designee, may waive the requirements of this 1981 provision, if natural geographic boundaries or safety factors would make this provision unworkable and/or more costly to the district or to the state; and

(2) Costs of acquisition of approved transportation equipment shall be reimbursed up to one hundred percent of the cost to be reimbursed over the anticipated life of the vehicle, as determined by the state superintendent: PROVIDED, That commencing with the 1980-81 school year, reimbursement shall be at one hundred percent or as close thereto as reasonably possible: PROVIDED FURTHER, That reimbursements for the acquisition of approved transportation equipment received by school districts shall be held within the general fund exclusively for the future purchase of approved transportation equipment and for major transportation equipment repairs consistent with rules and regulations authorized and promulgated under RCW 28A.150.290 and chapter 28A.505 RCW. [1990 c 33 § 110; 1981 c 343 § 1; 1977 ex.s. c 359 § 6; 1977 c 80 § 3; 1975 1st ex.s. c 275 § 60; 1972 ex.s. c 85 § 1; 1971 c 48 § 14; 1969 ex.s. c 223 § 28A.41.160. Prior: 1965 ex.s. c 154 § 5. Formerly RCW 28A.41.160, 28.41.160.]

Reviser's note: *(1) Chapter 340, Laws of 1981, the state operating budget act, is uncodified.

(2) RCW 28A.150.280 was amended twice during the 1981 regular legislative session, each without reference to the other. For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

Effective date--Severability--1981 c 265: See notes following RCW 28A.160.150.

Effective date--Severability--1977 ex.s. c 359: See notes following RCW 28A.150.200.

Severability--1977 c 80: See note following RCW 28A.160.030.

Severability--1971 c 48: See note following RCW 28A.305.040.

Additional programs for which legislative appropriations must or may be made: RCW 28A.150.370.

Basic Education Act, RCW 28A.150.280 as part of: RCW 28A.150.200.

Transportation vehicle fund--Deposits in--Use--Rules for establishment and use: RCW 28A.160.130.

28A.150.290 State superintendent to make rules and regulations—Unforeseen conditions or actions to be recognized—Paperwork limited. (Contingent expiration date.) (1) The superintendent of public instruction shall have the power and duty to make such rules and regulations as are necessary for the proper administration of this chapter and RCW 28A.160.150 through 28A.160.220, 28A.300.170, and 28A.500.010 not inconsistent with the provisions thereof, and in addition to require such reports as may be necessary to carry out his or her duties under this chapter and RCW

28A.160.150 through 28A.160.220, 28A.300.170, and 28A.500.010.

(2) The superintendent of public instruction shall have the authority to make rules and regulations which establish the terms and conditions for allowing school districts to receive state basic education moneys as provided in RCW 28A.150.250 when said districts are unable to fulfill for one or more schools as officially scheduled the requirement of a full school year of one hundred eighty days or the total program hour offering, teacher contact hour, or course mix and percentage requirements imposed by RCW 28A.150.220 and 28A.150.260 due to one or more of the following conditions:

(a) An unforeseen natural event, including, but not necessarily limited to, a fire, flood, explosion, storm, earthquake, epidemic, or volcanic eruption that has the direct or indirect effect of rendering one or more school district facilities unsafe, unhealthy, inaccessible, or inoperable; and

(b) An unforeseen mechanical failure or an unforeseen action or inaction by one or more persons, including negligence and threats, that (i) is beyond the control of both a school district board of directors and its employees and (ii) has the direct or indirect effect of rendering one or more school district facilities unsafe, unhealthy, inaccessible, or inoperable. Such actions, inactions or mechanical failures may include, but are not necessarily limited to, arson, vandalism, riots, insurrections, bomb threats, bombings, delays in the scheduled completion of construction projects, and the discontinuance or disruption of utilities such as heating, lighting and water: PROVIDED, That an unforeseen action or inaction shall not include any labor dispute between a school district board of directors and any employee of the school district.

A condition is foreseeable for the purposes of this subsection to the extent a reasonably prudent person would have anticipated prior to August first of the preceding school year that the condition probably would occur during the ensuing school year because of the occurrence of an event or a circumstance which existed during such preceding school year or a prior school year. A board of directors of a school district is deemed for the purposes of this subsection to have knowledge of events and circumstances which are a matter of common knowledge within the school district and of those events and circumstances which can be discovered upon prudent inquiry or inspection.

(3) The superintendent of public instruction shall make every effort to reduce the amount of paperwork required in administration of this chapter and RCW 28A.160.150 through 28A.160.220, 28A.300.170, and 28A.500.010; to simplify the application, monitoring and evaluation processes used; to eliminate all duplicative requests for information from local school districts; and to make every effort to integrate and standardize information requests for other state education acts and federal aid to education acts administered by the superintendent of public instruction so as to reduce paperwork requirements and duplicative information requests. [1990 c 33 § 111; 1981 c 285 § 1; 1979 ex.s. c 250 § 6; 1973 1st ex.s. c 78 § 1; 1972 ex.s. c 105 § 4; 1971 c 46 § 1; 1969 ex.s. c 3 § 2; 1969 ex.s. c 223 § 28A.41.170. Prior: 1965 ex.s. c 154 § 6. Formerly RCW 28A.41.170, 28.41.170.]

Effective date—Severability—1979 ex.s. c 250: See notes following RCW 28A.150.220.

Effective date—Severability—1972 ex.s. c 105: See notes following RCW 28A.150.250.

28A.150.290 State superintendent to make rules and regulations—Unforeseen conditions or actions to be recognized—Paperwork limited. (Contingent effective date.) (1) The superintendent of public instruction shall have the power and duty to make such rules and regulations as are necessary for the proper administration of this chapter and RCW 28A.160.150 through 28A.160.220, 28A.300.170, and 28A.500.010 not inconsistent with the provisions thereof, and in addition to require such reports as may be necessary to carry out his or her duties under this chapter and RCW 28A.160.150 through 28A.160.220, 28A.300.170, and 28A.500.010.

(2) The superintendent of public instruction shall have the authority to make rules and regulations which establish the terms and conditions for allowing school districts to receive state basic education moneys as provided in RCW 28A.150.250 when said districts are unable to fulfill for one or more schools as officially scheduled the requirement of a full school year of one hundred eighty days or the annual average total instructional hour offering imposed by RCW 28A.150.220 and 28A.150.260 due to one or more of the following conditions:

(a) An unforeseen natural event, including, but not necessarily limited to, a fire, flood, explosion, storm, earthquake, epidemic, or volcanic eruption that has the direct or indirect effect of rendering one or more school district facilities unsafe, unhealthy, inaccessible, or inoperable; and

(b) An unforeseen mechanical failure or an unforeseen action or inaction by one or more persons, including negligence and threats, that (i) is beyond the control of both a school district board of directors and its employees and (ii) has the direct or indirect effect of rendering one or more school district facilities unsafe, unhealthy, inaccessible, or inoperable. Such actions, inactions or mechanical failures may include, but are not necessarily limited to, arson, vandalism, riots, insurrections, bomb threats, bombings, delays in the scheduled completion of construction projects, and the discontinuance or disruption of utilities such as heating, lighting and water: PROVIDED, That an unforeseen action or inaction shall not include any labor dispute between a school district board of directors and any employee of the school district.

A condition is foreseeable for the purposes of this subsection to the extent a reasonably prudent person would have anticipated prior to August first of the preceding school year that the condition probably would occur during the ensuing school year because of the occurrence of an event or a circumstance which existed during such preceding school year or a prior school year. A board of directors of a school district is deemed for the purposes of this subsection to have knowledge of events and circumstances which are a matter of common knowledge within the school district and of those events and circumstances which can be discovered upon prudent inquiry or inspection.

(3) The superintendent of public instruction shall make every effort to reduce the amount of paperwork required in administration of this chapter and RCW 28A.160.150

through 28A.160.220, 28A.300.170, and 28A.500.010; to simplify the application, monitoring and evaluation processes used; to eliminate all duplicative requests for information from local school districts; and to make every effort to integrate and standardize information requests for other state education acts and federal aid to education acts administered by the superintendent of public instruction so as to reduce paperwork requirements and duplicative information requests. [1992 c 141 § 504; 1990 c 33 § 111; 1981 c 285 § 1; 1979 ex.s. c 250 § 6; 1973 1st ex.s. c 78 § 1; 1972 ex.s. c 105 § 4; 1971 c 46 § 1; 1969 ex.s. c 3 § 2; 1969 ex.s. c 223 § 28A.41.170. Prior: 1965 ex.s. c 154 § 6. Formerly RCW 28A.41.170, 28.41.170.]

Reviser's note: See note following RCW 28A.630.885.

Contingent effective date—1992 c 141 §§ 501-507: See note following RCW 28A.150.210.

Findings—Part headings—Severability—1992 c 141: See notes following RCW 28A.410.040.

Effective date—Severability—1979 ex.s. c 250: See notes following RCW 28A.150.220.

Effective date—Severability—1972 ex.s. c 105: See notes following RCW 28A.150.250.

28A.150.295 General public school system—Maintained. A general and uniform system of public schools embracing the common schools shall be maintained throughout the state of Washington in accordance with Article IX of the state Constitution. [1969 ex.s. c 223 § 28A.02.010. Prior: 1909 c 97 p 230 § 1; RRS § 4518; prior: 1897 c 118 § 1; 1890 p 348 § 1. Formerly RCW 28A.02.010, 28.02.010.]

APPROPRIATIONS AND ADJUSTMENTS

28A.150.350 Part time students—Defined—Enrollment authorized—Reimbursement for costs—Funding authority recognition—Rules, regulations. (1) For purposes of this section, the following definitions shall apply:

(a) "Private school student" shall mean any student enrolled full time in a private school;

(b) "School" shall mean any primary, secondary or vocational school;

(c) "School funding authority" shall mean any nonfederal governmental authority which provides moneys to common schools;

(d) "Part time student" shall mean and include: Any student enrolled in a course of instruction in a private school and taking courses at and/or receiving ancillary services offered by any public school not available in such private school; or any student who is not enrolled in a private school and is receiving home-based instruction under RCW 28A.225.010 which instruction includes taking courses at or receiving ancillary services from the local school district or both; or any student involved in any work training program and taking courses in any public school, which work training program is approved by the school board of the district in which such school is located.

(2) The board of directors of any school district is authorized and, in the same manner as for other public school students, shall permit the enrollment of and provide ancillary services for part time students: PROVIDED, That

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this section shall only apply to part time students who would be otherwise eligible for full time enrollment in the school district.

(3) The superintendent of public instruction shall recognize the costs to each school district occasioned by enrollment of and/or ancillary services provided for part time students authorized by subsection (2) of this section and shall include such costs in the distribution of funds to school districts pursuant to RCW 28A.150.260. Each school district shall be reimbursed for the costs or a portion thereof, occasioned by attendance of and/or ancillary services provided for part time students on a part time basis, by the superintendent of public instruction, according to law.

(4) Each school funding authority shall recognize the costs occasioned to each school district by enrollment of and ancillary services provided for part time students authorized by subsection (2) of this section, and shall include said costs in funding the activities of said school districts.

(5) The superintendent of public instruction is authorized to adopt rules and regulations to carry out the purposes of RCW 28A.150.260 and 28A.150.350. [1990 c 33 § 112; 1985 c 441 § 5; 1977 ex.s. c 359 § 8; 1972 ex.s. c 14 § 1; 1969 ex.s. c 217 § 4. Formerly RCW 28A.41.145.]

Severability—1985 c 441: See note following RCW 28A.225.010.

Effective date—Severability—1977 ex.s. c 359: See notes following RCW 28A.150.200.

Severability—1972 ex.s. c 14: "If any provision of this 1972 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is held invalid." [1972 ex.s. c 14 § 2.]

Basic Education Act, RCW 28A.150.350 as part of: RCW 28A.150.200.

28A.150.360 Adjustments to meet emergencies. In the event of an unforeseen emergency, in the nature of either an unavoidable cost to a district or unexpected variation in anticipated revenues to a district, the state superintendent is authorized, for not to exceed two years, to make such an adjustment in the allocation of funds as is consistent with the intent of RCW 28A.150.100 through *28A.150.430, 28A.160.150 through 28A.160.220, 28A.300.170, and 28A.500.010 in providing an equal educational opportunity for the children of such district or districts. [1990 c 33 § 113; 1969 ex.s. c 223 § 28A.41.150. Prior: 1965 ex.s. c 154 § 4. Formerly RCW 28A.41.150, 28.41.150.]

***Reviser's note:** RCW 28A.150.430 was repealed by 1991 c 116 § 26.

28A.150.370 Additional programs for which legislative appropriations must or may be made. In addition to those state funds provided to school districts for basic education, the legislature shall appropriate funds for pupil transportation, in accordance with RCW 28A.150.100 through *28A.150.430, 28A.160.150 through 28A.160.220, 28A.300.170, and 28A.500.010, and for programs for handicapped students, in accordance with RCW 28A.155.010 through 28A.155.100. The legislature may appropriate funds to be distributed to school districts for population factors such as urban costs, enrollment fluctuations and for special programs, including but not limited to, vocational-technical institutes, compensatory programs, bilingual education, urban, rural, racial and disadvantaged programs, programs for gifted students, and other special programs. [1990 c 33

§ 114; 1982 1st ex.s. c 24 § 1; 1977 ex.s. c 359 § 7. Formerly RCW 28A.41.162.]

*Reviser's note: RCW 28A.150.430 was repealed by 1991 c 116 § 26.

Effective date—1982 1st ex.s. c 24: "Sections 2 and 3 of this amendatory act shall take effect September 1, 1982." [1982 1st ex.s. c 24 § 6.]

Severability—1982 1st ex.s. c 24: "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." [1982 1st ex.s. c 24 § 7.]

The above two annotations apply to 1982 1st ex.s. c 24. For codification of that act, see Codification Tables, Volume 0.

Effective date—Severability—1977 ex.s. c 359: See notes following RCW 28A.150.200.

Basic Education Act, RCW 28A.150.370 as part of: RCW 28A.150.200.

28A.150.380 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 provided in RCW 28A.150.100 through *28A.150.430, 28A.160.150 through 28A.160.220, 28A.300.170, and 28A.500.010. [1990 c 33 § 115; 1980 c 6 § 3; 1969 ex.s. c 223 § 28A.41.050. Prior: 1945 c 141 § 2; Rem. Supp. 1945 § 4940-2. Formerly RCW 28A.41.050, 28.41.050.]

*Reviser's note: RCW 28A.150.430 was repealed by 1991 c 116 § 26.

Severability—1980 c 6: See note following RCW 28A.515.320.

28A.150.390 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. Funding for programs operated by local school districts shall be 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.150.250, 28A.150.260, and other state and local funds, excluding special excess levies. Funding for local district programs may include payments from state and federal funds for medical assistance provided under RCW 74.09.500 through 74.09.910. However, the superintendent of public instruction shall reimburse the department of social and health services from state appropriations for handicapped education programs for the state-funded portion of any medical assistance payment made by the department for services provided under an individualized education program established pursuant to RCW 28A.155.010 through 28A.155.100. The amount of such interagency reimbursement shall be deducted by the superintendent of public instruction in determining additional allocations to districts for handicapped education programs under this section. [1990 c 33 § 116; 1989 c 400 § 2; 1980 c 87 § 5; 1971 ex.s. c 66 § 11. Formerly RCW 28A.41.053.]

Intent—1989 c 400: "The legislature finds that there is increasing demand for school districts' special education programs to include medical services necessary for handicapped children's participation and educational progress. In some cases, these services could qualify for federal funding under Title XIX of the social security act. The legislature intends to establish a process for school districts to obtain reimbursement for eligible services from medical assistance funds. In this way, state dollars for

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handicapped education can be leveraged to generate federal matching funds, thereby increasing the overall level of resources available for school districts' special education programs." [1989 c 400 § 1.]

Severability—Effective date—1971 ex.s. c 66: See notes following RCW 28A.155.010.

28A.150.400 Apportionment factors to be based on current figures—Rules and regulations. State and county funds which may become due and apportionable to school districts shall be apportioned in such a manner that any apportionment factors used shall utilize data and statistics derived in the school year that such funds are paid: PROVIDED, That the superintendent of public instruction may make necessary administrative provision for the use of estimates, and corresponding adjustments to the extent necessary: PROVIDED FURTHER, That as to those revenues used in determining the amount of state funds to be apportioned to school districts pursuant to RCW 28A.150.250, any apportionment factors shall utilize data and statistics derived in an annual period established pursuant to rules and regulations promulgated by the superintendent of public instruction in cooperation with the department of revenue. [1990 c 33 § 117; 1972 ex.s. c 26 § 3; 1969 ex.s. c 223 § 28A.41.055. Prior: 1955 c 350 § 1. Formerly RCW 28A.41.055, 28.41.055.]

Severability—1972 ex.s. c 26: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1972 ex.s. c 26 § 4.]

28A.150.410 Basic education certificated instructional staff—Salary allocation schedule—Limits on post-graduate credits. (1) The legislature shall establish for each school year in the appropriations act a state-wide salary allocation schedule, for allocation purposes only, to be used to distribute funds for basic education certificated instructional staff salaries under RCW 28A.150.260.

(2) The superintendent of public instruction shall calculate salary allocations for state funded basic education certificated instructional staff by determining the district average salary for basic education instructional staff using the salary allocation schedule established pursuant to this section. However, no district shall receive an allocation based upon an average basic education certificated instructional staff salary which is less than the average of the district's 1986-87 actual basic education certificated instructional staff salaries, as reported to the superintendent of public instruction prior to June 1, 1987, and the legislature may grant minimum salary increases on that base: PROVIDED, That the superintendent of public instruction may adjust this allocation based upon the education and experience of the district's certificated instructional staff.

(3) Beginning January 1, 1992, no more than ninety college quarter-hour credits received by any employee after the baccalaureate degree may be used to determine compensation allocations under the state salary allocation schedule and LEAP documents referenced in the biennial appropriations act, or any replacement schedules and documents, unless:

- (a) The employee has a masters degree; or
- (b) The credits were used in generating state salary allocations before January 1, 1992. [1990 c 33 § 118; 1989

1st ex.s. c 16 § 1; 1987 3rd ex.s. c 1 § 4; 1987 1st ex.s. c 2 § 204. Formerly RCW 28A.41.112.]

Intent—Severability—Effective date—1987 1st ex.s. c 2: See notes following RCW 84.52.0531.

28A.150.420 Reimbursement for classes provided outside regular school year. The superintendent of public instruction shall establish procedures to allow school districts to claim basic education allocation funds for students attending classes that are provided outside the regular school year to the extent such attendance is in lieu of attendance during the regular school year: PROVIDED, That nothing in this section shall be construed to alter the basic education allocation for which the district is otherwise eligible. [1989 c 233 § 10. Formerly RCW 28A.41.172.]

28A.150.500 Educational agencies offering vocational education programs—Local advisory committees—Advice on current job needs. (1) Each local education agency or college district offering vocational educational programs shall establish local advisory committees to provide that agency or district with advice on current job needs and on the courses necessary to meet these needs.

(2) The local program committees shall:

- (a) Participate in the determination of program goals;
- (b) Review and evaluate program curricula, equipment, and effectiveness;
- (c) Include representatives of business and labor who reflect the local industry, and the community; and
- (d) Actively consult with other representatives of business, industry, labor, and agriculture. [1991 c 238 § 76.]

Effective dates—Severability—1991 c 238: See RCW 28B.50.917 and 28B.50.918.

Chapter 28A.155

SPECIAL EDUCATION

Sections

28A.155.010	Purpose.
28A.155.020	Administrative section or unit for the education of children with handicapping conditions—"Handicapped children" and "appropriate education" defined—Approval when child under jurisdiction of juvenile court.
28A.155.030	Division administrative officer—Appointment—Duties.
28A.155.040	Authority of districts—Participation of department of social and health services.
28A.155.050	Aid for children unable to attend school—Apportionment—Allocations from state excess funds.
28A.155.060	District authority to contract with approved agencies—Approval standards.
28A.155.070	Services to handicapped children of preschool age—Apportionment—Allocations from state excess cost funds.
28A.155.080	Appeal from superintendent's denial of educational program.
28A.155.090	Superintendent of public instruction's duty and authority.
28A.155.100	Sanctions applied to noncomplying districts.
28A.155.140	Curriculum-based assessment procedures for programs for children with handicapping conditions.

28A.155.010 Purpose. It is the purpose of RCW 28A.155.010 through 28A.155.100, 28A.160.030, and

28A.150.390 to ensure that all handicapped children as defined in RCW 28A.155.020 shall have the opportunity for an appropriate education at public expense as guaranteed to them by the Constitution of this state. [1990 c 33 § 120; 1971 ex.s. c 66 § 1. Formerly RCW 28A.13.005.]

Severability—1971 ex.s. c 66: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 66 § 13.]

Effective date—1971 ex.s. c 66: "This 1971 amendatory act will take effect July 1, 1973." [1971 ex.s. c 66 § 14.]

28A.155.020 Administrative section or unit for the education of children with handicapping conditions—"Handicapped children" and "appropriate education" defined—Approval when child under jurisdiction of juvenile court. There is established in the office of the superintendent of public instruction an administrative section or unit for the education of children with handicapping conditions.

Handicapped children are those children in school or out of school who are temporarily or permanently retarded in normal educational processes by reason of physical or mental handicap, or by reason of emotional maladjustment, or by reason of other handicap, and those children who have specific learning and language disabilities resulting from perceptual-motor handicaps, including problems in visual and auditory perception and integration.

The superintendent of public instruction shall require each school district in the state to insure an appropriate educational opportunity for all handicapped children between the ages of three and twenty-one, but when the twenty-first birthday occurs during the school year, the educational program may be continued until the end of that school year. The superintendent of public instruction, by rule and regulation, shall establish for the purpose of excess cost funding, as provided in RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100, functional definitions of the various types of handicapping conditions and eligibility criteria for handicapped programs. For the purposes of RCW 28A.155.010 through 28A.155.100, an appropriate education is defined as an education directed to the unique needs, abilities, and limitations of the handicapped children. School districts are strongly encouraged to provide parental training in the care and education of the children and to involve parents in the classroom.

Nothing in this section shall prohibit the establishment or continuation of existing cooperative programs between school districts or contracts with other agencies approved by the superintendent of public instruction, which can meet the obligations of school districts to provide education for handicapped children, or prohibit the continuation of needed related services to school districts by the department of social and health services.

This section shall not be construed as in any way limiting the powers of local school districts set forth in RCW 28A.155.070.

No child shall be removed from the jurisdiction of juvenile court for training or education under RCW 28A.155.010 through 28A.155.100 without the approval of the superior court of the county. [1990 c 33 § 121; 1985 c 341 § 4; 1984 c 160 § 1; 1971 ex.s. c 66 § 2; 1969 ex.s. c

2 § 2; 1969 ex.s. c 223 § 28A.13.010. Prior: 1951 c 92 § 1; prior: (i) 1943 c 120 § 1; Rem. Supp. 1943 § 4679-25. (ii) 1943 c 120 § 2, part; Rem. Supp. 1943 § 4679-26, part. Formerly RCW 28A.13.010, 28.13.010.]

Effective date—1985 c 341 §§ 4, 13: "Sections 4 and 13 of this act shall take effect August 1, 1985." [1985 c 341 § 18.]

Severability—1984 c 160: "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." [1984 c 160 § 6.]

Severability—Effective date—1971 ex.s. c 66: See notes following RCW 28A.155.010.

28A.155.030 Division administrative officer—Appointment—Duties. The superintendent of public instruction shall appoint an administrative officer of the division. The administrative officer, under the direction of the superintendent of public instruction, shall coordinate and supervise the program of special education for all handicapped children in the school districts of the state. He or she shall cooperate with the educational service district superintendents and local school district superintendents and with all other interested school officials in ensuring that all school districts provide an appropriate educational opportunity for all handicapped children and shall cooperate with the state secretary of social and health services and with county and regional officers on cases where medical examination or other attention is needed. [1990 c 33 § 122; 1975 1st ex.s. c 275 § 52; 1972 ex.s. c 10 § 1. Prior: 1971 ex.s. c 66 § 3; 1971 c 48 § 3; 1969 ex.s. c 223 § 28A.13.020; prior: 1943 c 120 § 3; Rem. Supp. 1943 § 4679-27. Formerly RCW 28A.13.020, 28.13.020.]

Severability—Effective date—1971 ex.s. c 66: See notes following RCW 28A.155.010.

28A.155.040 Authority of districts—Participation of department of social and health services. The board of directors of each school district, for the purpose of compliance with the provisions of RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100, shall cooperate with the superintendent of public instruction and with the administrative officer and shall provide an appropriate educational opportunity and give other appropriate aid and special attention to handicapped children in regular or special school facilities within the district or shall contract for such services with other agencies as provided in RCW 28A.155.060 or shall participate in an interdistrict arrangement in accordance with RCW 28A.335.160 and 28A.225.220 and/or 28A.225.250 and 28A.225.260.

In carrying out their responsibilities under this chapter, school districts severally or jointly with the approval of the superintendent of public instruction are authorized to establish, operate, support and/or contract for residential schools and/or homes approved by the department of social and health services for aid and special attention to handicapped children.

The cost of board and room in facilities approved by the department of social and health services shall be provided by the department of social and health services for those handicapped students eligible for such aid under programs of the department. The cost of approved board and room shall be provided for those handicapped students not eligible

under programs of the department of social and health services but deemed in need of the same by the superintendent of public instruction: PROVIDED, That no school district shall be financially responsible for special aid programs for students who are attending residential schools operated by the department of social and health services: PROVIDED FURTHER, That the provisions of RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100 shall not preclude the extension by the superintendent of public instruction of special education opportunities to handicapped children in residential schools operated by the department of social and health services. [1990 c 33 § 123; 1971 ex.s. c 66 § 4; 1969 ex.s. c 223 § 28A.13.030. Prior: 1959 c 122 § 1; 1953 c 135 § 1; 1943 c 120 § 4; Rem. Supp. 1943 § 4679-28. Formerly RCW 28A.13.030, 28.13.030.]

Severability—Effective date—1971 ex.s. c 66: See notes following RCW 28A.155.010.

28A.155.050 Aid for children unable to attend school—Apportionment—Allocations from state excess funds. Any child who is not able to attend school and who is eligible for special excess cost aid programs authorized under RCW 28A.155.010 through 28A.155.100 shall be given such aid at home or at such other place as determined by the board of directors of the school district in which such child resides. Any school district within which such a child resides shall thereupon be granted regular apportionment of state and county school funds and, in addition, allocations from state excess funds made available for such special services for such period of time as such special aid program is given: PROVIDED, That should such child or any other handicapped child attend and participate in a special aid program operated by another school district in accordance with the provisions of RCW 28A.225.210, 28A.225.220, and/or 28A.225.250, such regular apportionment shall be granted to the receiving school district, and such receiving school district shall be reimbursed by the district in which such student resides in accordance with rules and regulations promulgated by the superintendent of public instruction for the entire approved excess cost not reimbursed from such regular apportionment. [1990 c 33 § 124; 1971 ex.s. c 66 § 5; 1969 ex.s. c 223 § 28A.13.040. Prior: 1943 c 120 § 5; Rem. Supp. 1943 § 4679-29. Formerly RCW 28A.13.040, 28.13.040.]

Severability—Effective date—1971 ex.s. c 66: See notes following RCW 28A.155.010.

28A.155.060 District authority to contract with approved agencies—Approval standards. For the purpose of carrying out the provisions of RCW 28A.155.020 through 28A.155.050, the board of directors of every school district shall be authorized to contract with agencies approved by the state board of education for operating handicapped programs. Approval standards for such agencies shall conform substantially with those promulgated for approval of special education aid programs in the common schools. [1990 c 33 § 125; 1971 ex.s. c 66 § 6. Formerly RCW 28A.13.045.]

Severability—Effective date—1971 ex.s. c 66: See notes following RCW 28A.155.010.

28A.155.070 Services to handicapped children of preschool age—Apportionment—Allocations from state excess cost funds. Special educational and training programs provided by the state and the school districts thereof for handicapped children may be extended to include children of preschool age. School districts which extend such special programs to children of preschool age shall be entitled to the regular apportionments from state and county school funds, as provided by law, and in addition to allocations from state excess cost funds made available for such special services for those handicapped children who are given such special services. [1971 ex.s. c 66 § 7; 1969 ex.s. c 223 § 28A.13.050. Prior: 1951 c 92 § 2; 1949 c 186 § 1; Rem. Supp. 1949 § 4901-3. Formerly RCW 28A.13.050, 28.13.050.]

Severability—Effective date—1971 ex.s. c 66: See notes following RCW 28A.155.010.

28A.155.080 Appeal from superintendent's denial of educational program. Where a handicapped child as defined in RCW 28A.155.020 has been denied the opportunity of an educational program by a local school district superintendent under the provisions of RCW 28A.225.010, or for any other reason there shall be an affirmative showing by the school district superintendent in a writing directed to the parents or guardian of such a child within ten days of such decision that

(1) No agency or other school district with whom the district may contract under RCW 28A.155.040 can accommodate such child, and

(2) Such child will not benefit from an alternative educational opportunity as permitted under RCW 28A.155.050.

There shall be a right of appeal by the parent or guardian of such child to the superintendent of public instruction pursuant to procedures established by the superintendent and in accordance with RCW 28A.155.090. [1990 c 33 § 126; 1971 ex.s. c 66 § 8. Formerly RCW 28A.13.060.]

Severability—Effective date—1971 ex.s. c 66: See notes following RCW 28A.155.010.

28A.155.090 Superintendent of public instruction's duty and authority. The superintendent of public instruction shall have the duty and authority, through the administrative section or unit for the education of children with handicapping conditions, to:

(1) Assist school districts in the formation of total school programs to meet the needs of handicapped children;

(2) Develop interdistrict cooperation programs for handicapped children as authorized in RCW 28A.225.250;

(3) Provide, upon request, to parents or guardians of handicapped children, information as to the handicapped programs offered within the state;

(4) Assist, upon request, the parent or guardian of any handicapped child in the placement of any handicapped child who is eligible for but not receiving special educational aid for handicapped children;

(5) Approve school district and agency programs as being eligible for special excess cost financial aid to handicapped children;

(6) Adjudge, upon appeal by a parent or guardian of a handicapped child who is not receiving an educational program, whether the decision of a local school district superintendent under RCW 28A.155.080 to exclude such handicapped child was justified by the available facts and consistent with the provisions of RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100;[.] If the superintendent of public instruction shall decide otherwise he or she shall apply sanctions as provided in RCW 28A.155.100 until such time as the school district assures compliance with the provisions [of] RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100; and

(7) Promulgate such rules and regulations as are necessary to implement the several provisions of RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100 and to ensure educational opportunities within the common school system for all handicapped children who are not institutionalized. [1990 c 33 § 127; 1985 c 341 § 5; 1971 ex.s. c 66 § 9. Formerly RCW 28A.13.070.]

Severability—Effective date—1971 ex.s. c 66: See notes following RCW 28A.155.010.

28A.155.100 Sanctions applied to noncomplying districts. The superintendent of public instruction is hereby authorized and directed to establish appropriate sanctions to be applied to any school district of the state failing to comply with the provisions of RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100 to be applied beginning upon the effective date thereof, which sanctions shall include withholding of any portion of state aid to such district until such time as compliance is assured. [1990 c 33 § 128; 1971 ex.s. c 66 § 12. Formerly RCW 28A.13.080.]

Severability—Effective date—1971 ex.s. c 66: See notes following RCW 28A.155.010.

28A.155.140 Curriculum-based assessment procedures for programs for children with handicapping conditions. School districts may use curriculum-based assessment procedures as measures for developing academic early intervention programs and curriculum planning: PROVIDED, That the use of curriculum-based assessment procedures shall not deny a student the right to an assessment to determine eligibility or participation in learning disabilities programs as provided by RCW 28A.155.010 through 28A.155.100. [1991 c 116 § 4; 1990 c 33 § 131; 1987 c 398 § 1. Formerly RCW 28A.03.367.]

Chapter 28A.160

STUDENT TRANSPORTATION

Sections

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28A.160.210	School bus drivers, training and qualifications—Rules and regulations for.
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Age limit for bus drivers: RCW 46.20.045.

School buses—Crossing arms: RCW 46.37.620.

28A.160.010 Operation of student transportation program—Responsibility of local district—Scope—Transporting of elderly—Insurance. The operation of each local school district's student transportation program is declared to be the responsibility of the respective board of directors, and each board of directors shall determine such matters as which individual students shall be transported and what routes shall be most efficiently utilized. State moneys allocated to local districts for student transportation shall be spent only for student transportation activities, but need not be spent by the local district in the same manner as calculated and allocated by the state.

A school district is authorized to provide for the transportation of students enrolled in the school or schools of the district both in the case of students who reside within the boundaries of the district and of students who reside outside the boundaries of the district.

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.

School districts may use school buses and drivers hired by the district or commercial chartered bus service 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.160.080 and 28A.160.090, 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 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.400.350.

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. [1990 c 33 § 132; 1986 c 32 § 1; 1983 1st ex.s. c 61 § 1; 1981 c 265 § 10; 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 28A.24.055, 28.58.421.]

Severability—1983 1st ex.s. c 61: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 1st ex.s. c 61 § 9.]

Effective date—Severability—1981 c 265: See notes following RCW 28A.160.150.

Elderly persons defined—Program limitation: RCW 28A.160.070.

28A.160.020 Authorization for private school students to ride buses—Conditions. Every school district board of directors may authorize children attending a private school approved in accordance with RCW 28A.195.010 to ride a school bus or other student transportation vehicle to and from school so long as the following conditions are met:

(1) The board of directors shall not be required to alter those bus routes or stops established for transporting public school students;

(2) Private school students shall be allowed to ride on a seat-available basis only; and

(3) The board of directors shall charge an amount sufficient to reimburse the district for the actual per seat cost of providing such transportation. [1990 c 33 § 133; 1981 c 307 § 1. Formerly RCW 28A.24.065.]

Severability—1981 c 307: "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." [1981 c 307 § 2.]

28A.160.030 Authorizing individual transportation or other arrangements. Individual transportation, board and room, and other arrangements may be authorized or provided and, in whole or part, paid for or reimbursed by a school district, when approved by the educational service district superintendent or his or her designee pursuant to rules promulgated by the superintendent of public instruction for that purpose: PROVIDED, That the total of payments for board and room and transportation incidental thereto shall not exceed the amount which would otherwise be paid for such individual transportation. [1981 c 265 § 11; 1977 c 80 § 2; 1971 ex.s. c 66 § 10; 1969 ex.s. c 223 § 28A.24.100. Prior: 1965 ex.s. c 154 § 9. Formerly RCW 28A.24.100, 28.24.100.]

Effective date—Severability—1981 c 265: See notes following RCW 28A.160.150.

Severability—1977 c 80: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 c 80 § 5.]

Severability—Effective date—1971 ex.s. c 66: See notes following RCW 28A.155.010.

28A.160.040 Lease of buses to transport handicapped children and elderly—Limitation. The directors of school districts are authorized to lease school buses to nonprofit organizations to transport handicapped children and elderly persons to and from the site of activities or programs deemed beneficial to such persons by such organizations: PROVIDED, That commercial bus transportation is not reasonably available for such purposes. [1973 c 45 § 2; 1971 c 78 § 1. Formerly RCW 28A.24.110.]

Elderly persons defined—Program limitation: RCW 28A.160.070.

28A.160.050 Lease of buses to transport handicapped children and elderly—Directors to authorize. The directors of school districts may authorize leases under RCW 28A.160.040 through 28A.160.060: PROVIDED, That such leases do not conflict with regular school purposes. [1990 c 33 § 134; 1971 c 78 § 2. Formerly RCW 28A.24.111.]

28A.160.060 Lease of buses to transport handicapped children and elderly—Lease at local level—Criteria. The lease of the equipment shall be handled by the school directors at a local level. The school directors may establish criteria for bus use and lease, including, but not limited to, minimum costs, and driver requirements. [1971 c 78 § 3. Formerly RCW 28A.24.112.]

28A.160.070 Lease of buses to transport handicapped children and elderly—Elderly persons defined—Program limitation. For purposes of RCW 28A.160.010 and 28A.160.040, "elderly person" shall mean a person who is at least sixty years of age. No school district funds may be used for the operation of such a program. [1990 c 33 § 135; 1973 c 45 § 3. Formerly RCW 28A.24.120.]

28A.160.080 School buses, rental or lease for emergency purposes—Authorization. It is the intent of the legislature and the purpose of RCW 28A.160.010, 28A.160.080, and 28A.160.090 that in the event of major forest fires, floods, or other natural emergencies that boards of directors of school districts, in their discretion, may rent or lease school buses to governmental agencies for the purposes of transporting personnel, supplies and/or evacuees. [1990 c 33 § 136; 1971 c 24 § 1. Formerly RCW 28A.24.170.]

28A.160.090 School buses, rental or lease for emergency purposes—Board to determine district policy—Conditions if rent or lease. Each school district board shall determine its own policy as to whether or not its school buses will be rented or leased for the purposes of RCW 28A.160.080, and if the board decision is to rent or lease, under what conditions, subject to the following:

(1) Such renting or leasing may take place only after the state director of community development or any of his or her agents so authorized has, at the request of an involved governmental agency, declared that an emergency exists in a designated area insofar as the need for additional transport is concerned.

(2) The agency renting or leasing the school buses must agree, in writing, to reimburse the school district for all costs and expenses related to their use and also must provide an indemnity agreement protecting the district against any type of claim or legal action whatsoever, including all legal costs incident thereto. [1990 c 33 § 137; 1986 c 266 § 21; 1985 c 7 § 88; 1974 ex.s. c 171 § 1; 1971 c 24 § 2. Formerly RCW 28A.24.172.]

Severability—1986 c 266: See note following RCW 38.52.005.

28A.160.100 School buses, transport of general public to interscholastic activities—Limitations. In addition to the authority otherwise provided in RCW 28A.160.010 through 28A.160.120 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. [1990 c 33 § 138; 1980 c 91 § 1. Formerly RCW 28A.24.175.]

28A.160.110 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. Formerly RCW 28A.24.178.]

28A.160.115 Bus routes. On highways divided into separate roadways as provided in RCW 46.61.150 and highways with three or more marked traffic lanes, public school district bus routes and private school bus routes shall serve each side of the highway so that students do not have to cross the highway, unless there is a traffic control signal as defined in RCW 46.04.600 or an adult crossing guard within three hundred feet of the bus stop to assist students while crossing such multiple-lane highways. [1990 c 241 § 11.]

28A.160.120 Agreements with other governmental entities for transportation of public or other noncommon school purposes—Limitations. Any school district board of directors or any intermediate school district board may enter into agreements pursuant to chapter 39.34 RCW or chapter 35.58 RCW, as now or hereafter amended, with any city, town, county, metropolitan municipal corporation, and any federal or other state governmental entity, or any combination of the foregoing, for the purpose of providing for the transportation of students and/or members of the public through the use, in whole or part, of the school district's buses, transportation equipment and facilities, and employees: PROVIDED, That any agreement entered into for purposes of transportation pursuant to this section shall conform with the provisions of RCW 35.58.250 where applicable and shall provide for the reimbursement and payment to the school district of not less than the district's actual costs and the reasonable value of the use of the district's buses, and transportation equipment and supplies which are incurred and otherwise provided in connection with the transportation of members of the public or other noncommon school purposes: PROVIDED FURTHER, That wherever public transportation, or private transportation

certified or licensed by the Washington utilities and transportation commission is not reasonably available, the school district or intermediate school district may transport members of the public so long as they are reimbursed for the cost of such transportation, and such transportation has been approved by any metropolitan municipal corporation performing public transportation pursuant to chapter 35.58 RCW in the area to be served by the district. [1974 ex.s. c 93 § 1. Formerly RCW 28A.24.180.]

28A.160.130 Transportation vehicle fund—Deposits in—Use—Rules for establishment and use. (1) There is created a fund on deposit with each county treasurer for each school district of the county, which shall be known as the transportation vehicle fund. Money to be deposited into the transportation vehicle fund shall include, but is not limited to, the following:

(a) The balance of accounts held in the general fund of each school district for the purchase of approved transportation equipment and for major transportation equipment repairs under RCW 28A.150.280. The amount transferred shall be the balance of the account as of September 1, 1982;

(b) Reimbursement payments provided for in RCW 28A.160.200 except those provided under RCW 28A.160.200(4) that are necessary for contracted payments to private carriers;

(c) Earnings from transportation vehicle fund investments as authorized in RCW 28A.320.300; and

(d) The district's share of the proceeds from the sale of transportation vehicles, as determined by the superintendent of public instruction.

(2) Funds in the transportation vehicle fund may be used for the following purposes:

(a) Purchase of pupil transportation vehicles pursuant to RCW 28A.160.200 and 28A.150.280;

(b) Payment of conditional sales contracts as authorized in RCW 28A.335.200 or payment of obligations authorized in RCW 28A.530.080, entered into or issued for the purpose of pupil transportation vehicles;

(c) Major repairs to pupil transportation vehicles.

The superintendent of public instruction shall adopt rules which shall establish the standards, conditions, and procedures governing the establishment and use of the transportation vehicle fund. The rules shall not permit the transfer of funds from the transportation vehicle fund to any other fund of the district. [1991 c 114 § 2; 1990 c 33 § 139; 1981 c 265 § 7. Formerly RCW 28A.58.428.]

Effective date—Severability—1981 c 265: See notes following RCW 28A.160.150.

28A.160.140 Contract for pupil transportation services with private nongovernmental entity—Competitive bid procedures. As a condition of entering into a pupil transportation services contract with a private nongovernmental entity, each school district shall engage in an open competitive process at least once every five years. This requirement shall not be construed to prohibit a district from entering into a pupil transportation services contract of less than five years in duration with a district option to renew, extend, or terminate the contract, if the district

engages in an open competitive process at least once every five years after July 26, 1987. As used in this section:

(1) "Open competitive process" means either one of the following, at the choice of the school district:

(a) The solicitation of bids or quotations and the award of contracts under RCW 28A.335.190; or

(b) The competitive solicitation of proposals and their evaluation consistent with the process and criteria recommended or required, as the case may be, by the office of financial management for state agency acquisition of personal service contractors;

(2) "Pupil transportation services contract" means a contract for the operation of privately owned or school district owned school buses, and the services of drivers or operators, management and supervisory personnel, and their support personnel such as secretaries, dispatchers, and mechanics, or any combination thereof, to provide students with transportation to and from school on a regular basis; and

(3) "School bus" means a motor vehicle as defined in RCW 46.04.521 and under the rules of the superintendent of public instruction. [1990 c 33 § 140; 1987 c 141 § 2. Formerly RCW 28A.58.133.]

Severability—1987 c 141: See note following RCW 28A.335.170.

28A.160.150 Student transportation allocation—Operating costs, determination and funding. Funds allocated for transportation costs shall be in addition to the basic education allocation. The distribution formula developed in RCW 28A.160.150 through 28A.160.180 shall be for allocation purposes only and shall not be construed as mandating specific levels of pupil transportation services by local districts. Operating costs as determined under RCW 28A.160.150 through 28A.160.180 shall be funded at one hundred percent or as close thereto as reasonably possible for transportation of an eligible student to and from school as defined in RCW 28A.160.160(3). [1990 c 33 § 141; 1983 1st ex.s. c 61 § 2; 1981 c 265 § 1. Formerly RCW 28A.41.505.]

Severability—1983 1st ex.s. c 61: See note following RCW 28A.160.010.

Effective date—1981 c 265: "With the exception of sections 8 and 13 of this amendatory act, the effective date of this amendatory act is September 1, 1982. The superintendent of public instruction and the office thereof prior to the effective date of this amendatory act may take such actions as necessary for the orderly implementation thereof and during such period may carry out such data collection activities and district notification provisions as provided for herein." [1981 c 265 § 16.] For codification of 1981 c 265, see Codification Tables, Volume 0.

Severability—1981 c 265: "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." [1981 c 265 § 17.]

28A.160.160 Student transportation allocation—Definitions. For purposes of RCW 28A.160.150 through 28A.160.190, except where the context shall clearly indicate otherwise, the following definitions apply:

(1) "Eligible student" means any student served by the transportation program of a school district or compensated for individual transportation arrangements authorized by RCW 28A.160.030 whose route stop is more than one radius mile from the student's school, except if the student to be

transported: (a) Is handicapped under RCW 28A.155.020 and is either not ambulatory or not capable of protecting his or her own welfare while traveling to or from the school or agency where special education services are provided, in which case no mileage distance restriction applies; or (b) qualifies for an exemption due to hazardous walking conditions.

(2) "Superintendent" means the superintendent of public instruction.

(3) "To and from school" means the transportation of students for the following purposes:

(a) Transportation to and from route stops and schools;

(b) Transportation to and from schools pursuant to an interdistrict agreement pursuant to RCW 28A.335.160;

(c) Transportation of students between schools and learning centers for instruction specifically required by statute; and

(d) Transportation of handicapped students to and from schools and agencies for special education services.

Extended day transportation shall not be considered part of transportation of students "to and from school" for the purposes of *this 1983 act.

(4) "Hazardous walking conditions" means those instances of the existence of dangerous walkways documented by the board of directors of a school district which meet criteria specified in rules adopted by the superintendent of public instruction. A school district that receives an exemption for hazardous walking conditions should demonstrate that good faith efforts are being made to alleviate the problem and that the district, in cooperation with other state and local governing authorities, is attempting to reduce the incidence of hazardous walking conditions. The superintendent of public instruction shall appoint an advisory committee to prepare guidelines and procedures for determining the existence of hazardous walking conditions. The committee shall include but not be limited to representatives from law enforcement agencies, school districts, the department of transportation, city and county government, the insurance industry, parents, school directors and legislators. [1990 c 33 § 142; 1983 1st ex.s. c 61 § 3; 1981 c 265 § 2. Formerly RCW 28A.41.510.]

***Reviser's note:** "This 1983 act" [1983 1st ex.s. c 61] consisted of the amendments to RCW 28A.24.055, 28A.41.505, 28A.41.510, 28A.41.515, 28A.41.520, 28A.41.525, and 28A.44.220, and the repeal of RCW 28A.04.350.

Severability—1983 1st ex.s. c 61: See note following RCW 28A.160.010.

Effective date—Severability—1981 c 265: See notes following RCW 28A.160.150.

28A.160.170 Student transportation allocation—District's annual report to superintendent. Each district shall submit to the superintendent of public instruction during October of each year a report containing the following:

(1)(a) The number of eligible students transported to and from school as provided for in RCW 28A.160.150 for the current school year and the number of miles estimated to be driven for pupil transportation services, along with a map describing student route stop locations and school locations, and (b) the number of miles driven for pupil transportation

services as authorized in RCW 28A.160.150 the previous school year; and

(2) Other operational data and descriptions as required by the superintendent to determine allocation requirements for each district.

Each district shall submit the information required in this section on a timely basis as a condition of the continuing receipt of school transportation moneys. [1990 c 33 § 143; 1983 1st ex.s. c 61 § 4; 1981 c 265 § 3. Formerly RCW 28A.41.515.]

Severability—1983 1st ex.s. c 61: See note following RCW 28A.160.010.

Effective date—Severability—1981 c 265: See notes following RCW 28A.160.150.

28A.160.180 Student transportation allocation—Allocation rates, adjustment—District-owned passenger cars—Report. Each district's annual student transportation allocation shall be based on differential rates determined by the superintendent of public instruction in the following manner:

(1) The superintendent shall annually calculate a standard student mile allocation rate for determining the transportation allocation for those services provided for in RCW 28A.160.150. "Standard student mile allocation rate," as used in this chapter, means the per mile allocation rate for transporting an eligible student. The standard student mile allocation rate may be adjusted to include such additional differential factors as distance; restricted passenger load; circumstances that require use of special types of transportation vehicles; handicapped student load; and small fleet maintenance.

(2) The superintendent of public instruction shall annually calculate allocation rate(s), which shall include vehicle amortization, for determining the transportation allocation for transporting students in district-owned passenger cars, as defined in RCW 46.04.382, pursuant to RCW 28A.160.010 for services provided for in RCW 28A.160.150 if a school district deems it advisable to use such vehicles after the school district board of directors has considered the safety of the students being transported as well as the economy of utilizing a district-owned passenger car in lieu of a school bus.

(3) Prior to June 1st of each year the superintendent shall submit to the office of financial management, and the committees on education and ways and means of the senate and house of representatives a report outlining the methodology and rationale used in determining the allocation rates to be used the following year. [1990 c 33 § 144; 1985 c 59 § 1; 1983 1st ex.s. c 61 § 5; 1982 1st ex.s. c 24 § 2; 1981 c 265 § 4. Formerly RCW 28A.41.520.]

Severability—1983 1st ex.s. c 61: See note following RCW 28A.160.010.

Effective date—Severability—1982 1st ex.s. c 24: See notes following RCW 28A.150.370.

Effective date—Severability—1981 c 265: See notes following RCW 28A.160.150.

28A.160.190 Student transportation allocation—Notice—Revised eligible student data, when—Allocation payments, amounts, when. The superintendent shall notify districts of their student transportation allocation before

January 15th. If the number of eligible students in a school district changes ten percent or more from the October report, and the change is maintained for a period of twenty consecutive school days or more, the district may submit revised eligible student data to the superintendent of public instruction. The superintendent shall, to the extent funds are available, recalculate the district's allocation for the transportation of pupils to and from school.

The superintendent shall make the student transportation allocation in accordance with the apportionment payment schedule in RCW 28A.510.250. Such allocation payments may be based on estimated amounts for payments to be made in September, October, November, December, and January. [1990 c 33 § 145; 1985 c 59 § 2; 1983 1st ex.s. c 61 § 6; 1982 1st ex.s. c 24 § 3; 1981 c 265 § 5. Formerly RCW 28A.41.525.]

Severability—1983 1st ex.s. c 61: See note following RCW 28A.160.010.

Effective date—Severability—1982 1st ex.s. c 24: See notes following RCW 28A.150.370.

Effective date—Severability—1981 c 265: See notes following RCW 28A.160.150.

28A.160.200 Student transportation vehicle acquisition allocation—Determining vehicle categories and purchase price—Reimbursement schedule—Standards for operation and maintenance—Depreciation schedule. The superintendent shall determine the vehicle acquisition allocation in the following manner:

(1) By May 1st of each year, the superintendent shall develop preliminary categories of student transportation vehicles to ensure adequate student transportation fleets for districts. The superintendent shall take into consideration the types of vehicles purchased by individual school districts in the state. The categories shall include, but not be limited to, variables such as vehicle capacity, type of chassis, type of fuel, engine and body type, special equipment, and life of vehicle. The categories shall be developed in conjunction with the local districts and shall be applicable to the following school year. The categories shall be designed to produce minimum long-range operating costs, including costs of equipment and all costs incurred in operating the vehicles. Each category description shall include the estimated state-determined purchase price, which shall be based on the actual costs of the vehicles purchased for that comparable category in the state during the preceding twelve months and the anticipated market price for the next school fiscal year. By June 15th of each year, the superintendent shall notify districts of the preliminary vehicle categories and state-determined purchase price for the ensuing school year. By October 15th of each year, the superintendent shall finalize the categories and the associated state-determined purchase price and shall notify districts of any changes. While it is the responsibility of each district to select each student transportation vehicle to be purchased by the district, each district shall be paid a sum based only on the amount of the state-determined purchase price and inflation as recognized by the reimbursement schedule established in this section as set by the superintendent for the category of vehicle purchased.

(2) The superintendent shall develop a reimbursement schedule to pay districts for the cost of student transportation

vehicles purchased after September 1, 1982. The accumulated value of the payments and the potential investment return thereon shall be designed to be equal to the replacement value of the vehicle less its salvage value at the end of its anticipated lifetime. The superintendent shall revise at least annually the reimbursement payments based on the current and anticipated future cost of comparable categories of transportation equipment. Reimbursements to school districts for approved transportation equipment shall be placed in a separate vehicle transportation fund established for each school district under RCW 28A.160.130. However, educational service districts providing student transportation services pursuant to RCW 28A.310.180(4) and receiving moneys generated pursuant to this section shall establish and maintain a separate vehicle transportation account in the educational service district's general expense fund for the purposes and subject to the conditions under RCW 28A.160.130 and 28A.320.300.

(3) To the extent possible, districts shall operate vehicles acquired under this section not less than the number of years or useful lifetime now, or hereafter, assigned to the class of vehicles by the superintendent. School districts shall properly maintain the transportation equipment acquired under the provisions of this section, in accordance with rules established by the office of the superintendent of public instruction. If a district fails to follow generally accepted standards of maintenance and operation, the superintendent of public instruction shall penalize the district by deducting from future reimbursements under this section an amount equal to the original cost of the vehicle multiplied by the fraction of the useful lifetime or miles the vehicle failed to operate.

(4) The superintendent shall annually develop a depreciation schedule to recognize the cost of depreciation to districts contracting with private carriers for student transportation. Payments on this schedule shall be a straight line depreciation based on the original cost of the appropriate category of vehicle. [1990 c 33 § 146; 1987 c 508 § 4; 1981 c 265 § 6. Formerly RCW 28A.41.540.]

Effective date—Severability—1981 c 265: See notes following RCW 28A.160.150.

Transportation vehicle fund—Deposits in—Use—Rules for establishment and use: RCW 28A.160.130.

28A.160.210 School bus drivers, training and qualifications—Rules and regulations for. In addition to other powers and duties, the state board of education shall adopt rules and regulations governing the training and qualifications of school bus drivers. Such rules and regulations shall be designed to insure that persons will not be employed to operate school buses unless they possess such physical health and driving skills as are necessary to safely operate school buses: PROVIDED, That such rules and regulations shall insure that school bus drivers are provided a due process hearing before any certification required by such rules and regulations is cancelled: PROVIDED FURTHER, That such rules and regulations shall not conflict with the authority of the department of licensing to license school bus drivers in accordance with chapter 46.25 RCW. The state board of education may obtain a copy of the driving record, as maintained by the department of licensing, for consideration when evaluating a school bus driver's

driving skills. [1989 c 178 § 20; 1981 c 200 § 1; 1979 c 158 § 89; 1969 ex.s. c 153 § 4. Formerly RCW 28A.04.131.]

Severability—Effective dates—1989 c 178: See RCW 46.25.900 and 46.25.901.

28A.160.220 Reimbursement for substitute if employee serves state board or superintendent. If the superintendent of public instruction or the state board of education, in carrying out their powers and duties under Title 28A RCW, request the service of any certificated employee of a school district upon any committee formed for the purpose of furthering education within the state, or within any school district therein, and such service would result in a need for a school district to employ a substitute for such certificated employee during such service, payment for such a substitute may be made by the superintendent of public instruction from funds appropriated by the legislature for the current use of the common schools and such payments shall be construed as amounts needed for state support to the common schools under RCW 28A.150.380. If such substitute is paid by the superintendent of public instruction, no deduction shall be made from the salary of the certificated employee. In no event shall a school district deduct from the salary of a certificated employee serving on such committee more than the amount paid the substitute employed by the district. [1990 c 33 § 147; 1973 1st ex.s. c 3 § 1. Formerly RCW 28A.41.180.]

Chapter 28A.165

LEARNING ASSISTANCE PROGRAM

Sections

28A.165.010	Intent.
28A.165.012	Program created.
28A.165.030	Definitions.
28A.165.040	Application for state funds—Needs assessment—Plan.
28A.165.050	Identification of students—Coordination of use of funds.
28A.165.060	Services or activities under program.
28A.165.070	Eligibility for funds—Distribution of funds.
28A.165.080	Monitoring.
28A.165.090	Rules.

28A.165.010 Intent. The legislature finds that an important and effective means of improving the educational performance of many students with special needs is to improve the general education program. The legislature also finds that there is a continuum of educational program needs among students with learning problems or poor academic performance. The legislature wants to encourage school districts to serve students with special needs within the regular classroom. Therefore, the legislature intends to replace the remediation program with a broader range of program options, without reducing special instructional programs when those services are both necessary and appropriate. The legislature intends to enhance the ability of basic education teachers to identify and address learning problems within the regular classroom. The legislature further intends to stimulate development by local schools and school districts of innovative and effective means of serving students with special needs. The goal is to increase the

achievement of students with special needs in a shorter period of time using processes that are more timely, appropriate and effective in producing better outcomes. [1989 c 233 § 1; 1987 c 478 § 1. Formerly RCW 28A.120.010.]

28A.165.012 Program created. There is hereby created a state-wide program designed to enhance educational opportunities for public school students who are deficient in basic skills achievement. This program shall be known as the learning assistance program. [1987 c 478 § 2. Formerly RCW 28A.120.012.]

28A.165.030 Definitions. Unless the context clearly indicates otherwise the definitions in this section apply throughout RCW 28A.165.010 through 28A.165.090.

(1) "Basic skills" means reading, mathematics, and language arts as well as readiness activities associated with such skills.

(2) "Placement testing" means the administration of objective measures by a school district for the purposes of diagnosing the basic skills achievement levels, determining the basic skills areas of greatest need, and establishing the learning assistance needs of individual students in conformance with instructions established by the superintendent of public instruction for such purposes.

(3) "Approved program" means a program conducted pursuant to a plan submitted by a district and approved by the superintendent of public instruction under RCW 28A.165.040.

(4) "Participating student" means a student in kindergarten through grade nine who scores below grade level in basic skills, as determined by placement testing, and who is identified under RCW 28A.165.050 to receive additional services or support under an approved program.

(5) "Basic skills tests" means state-wide tests at the fourth and eighth grade levels established pursuant to RCW 28A.230.190. [1990 c 33 § 148; 1987 c 478 § 3. Formerly RCW 28A.120.014.]

28A.165.040 Application for state funds—Needs assessment—Plan. Each school district which applies for state funds distributed pursuant to RCW 28A.165.070 shall conduct a needs assessment and, on the basis of its findings, shall develop a plan for the use of these funds. The plan may incorporate plans developed by each eligible school. Districts are encouraged to place special emphasis on addressing the needs of students in the early grades. The needs assessment and plan shall be updated at least biennially, and shall be determined in consultation with an advisory committee including but not limited to members of the following groups: Parents, including parents of students served by the program; teachers; principals; administrators; and school directors. The district shall submit a biennial application specifying this plan to the office of the superintendent of public instruction for approval. Plans shall include:

(1) The means which the district will use to identify participating students to receive additional services or support under the proposed program;

(2) The specific services or activities which the funds will be used to support, and their estimated costs;

(3) A plan for annual evaluation of the program by the district, based on performance objectives related to basic skills achievement of participating students, and a plan for reporting the results of this evaluation to the superintendent of public instruction;

(4) Procedures for recordkeeping or other program documentation as may be required by the superintendent of public instruction; and

(5) The approval of the local school district board of directors. [1990 c 33 § 149; 1989 c 233 § 2; 1987 c 478 § 4. Formerly RCW 28A.120.016.]

28A.165.050 Identification of students—Coordination of use of funds. Identification of participating students for an approved program of learning assistance shall be determined in each district through the implementation of the findings of the district's needs assessment and through placement testing. School districts are encouraged to coordinate the use of funds from federal, state, and local sources in serving students who are below grade level in basic skills, and to make efficient use of these resources in meeting the needs of students with the greatest academic deficits. [1987 c 478 § 5. Formerly RCW 28A.120.018.]

28A.165.060 Services or activities under program. Services or activities which may be supported under an approved program of learning assistance shall include but not be limited to:

(1) Consultant teachers to assist classroom teachers in meeting the needs of participating students;

(2) Instructional support staff and instructional assistants to assist classroom teachers in meeting the needs of participating students;

(3) In-service training for classroom teachers, instructional support staff, and instructional assistants in multicultural differences and the identification of learning problems or in instructional methods for teaching students with learning problems;

(4) Special instructional programs for participating students, of sufficient size, scope, and quality to address the needs of these students and to give reasonable promise of substantial progress toward meeting their educational objectives;

(5) Tutoring assistance during or after school or on Saturday provided by instructional support staff, a student tutor, teacher, or instructional assistant;

(6) In-service training for parents of participating students; and

(7) Counseling, with an emphasis on services for elementary students who are in need of learning assistance, provided by instructional support staff such as school counselors, school psychologists, school nurses, and school social workers. Pursuant to the provisions of *section 4(2) of this act, learning assistance funds may be used to provide counseling for students who in the absence of counseling would likely become in need of such learning assistance. [1989 c 233 § 3; 1987 c 478 § 6. Formerly RCW 28A.120.020.]

*Reviser's note: Section 4(2) of this act was vetoed by the governor.

28A.165.070 Eligibility for funds—Distribution of funds. Each school district which has established an approved program shall be eligible, as determined by the superintendent of public instruction, for state funds made available for the purposes of such programs. The superintendent of public instruction shall make use of data derived from the basic skills tests in determining the amount of funds for which a district may be eligible. Funds shall be distributed according to the district's total full-time equivalent enrollment in kindergarten through grade nine and the percentage of the district's students taking the basic skills tests who scored in the lowest quartile as compared with national norms. In making this calculation, the superintendent of public instruction may use an average over the immediately preceding five or fewer years of the district's percentage scoring in the lowest quartile. The superintendent of public instruction shall also deduct the number of students at these age levels who are identified as specific learning disabled and are generating state funds for special education programs conducted pursuant to RCW 28A.155.010 through 28A.155.100, in distributing state funds for learning assistance. The distribution formula in this section is for allocation purposes only. [1990 c 33 § 150; 1987 c 478 § 7. Formerly RCW 28A.120.022.]

28A.165.080 Monitoring. In order to insure that school districts are meeting the requirements of an approved program, the superintendent of public instruction shall monitor such programs no less than once every three years. The results of the evaluations required by RCW 28A.165.040 shall be transmitted to the superintendent of public instruction annually. Individual student records shall be maintained at the school district. [1990 c 33 § 151; 1987 c 478 § 8. Formerly RCW 28A.120.024.]

28A.165.090 Rules. The superintendent of public instruction shall promulgate rules pursuant to chapter 34.05 RCW which he or she deems necessary to implement RCW 28A.165.010 through 28A.165.080. [1990 c 33 § 152; 1987 c 478 § 9. Formerly RCW 28A.120.026.]

Chapter 28A.170

SUBSTANCE ABUSE AWARENESS PROGRAM

Sections

28A.170.010	Program established—Goals.
28A.170.020	Rules—Grants—Program areas eligible for funding.
28A.170.030	Application for funding—Procedure.
28A.170.040	Application for continued funding—Contents.
28A.170.050	Advisory committee—Members—Duties.
28A.170.060	Information about programs and penalties—Duties of superintendent through state clearinghouse for education information.
28A.170.070	Conflict with federal laws—RCW 28A.170.020 through 28A.170.060.
28A.170.075	Findings—Intent.
28A.170.080	Grants—Substance abuse intervention.
28A.170.090	Selection of grant recipients—Program rules.
28A.170.100	Promotion of parent and community involvement—Program review.

28A.170.010 Program established—Goals. The citizens of the state of Washington recognize the serious

impact of alcohol and drug abuse on a student's self-concept and on the ability of students to learn. Therefore, the substance abuse awareness program is established: (1) To aid students in the development of skills that will assist them in making informed decisions concerning the use of drugs and alcohol; (2) to contribute to the development and support of a drug-free educational environment; and (3) to help school districts in the development of comprehensive drug and alcohol policies leading to the implementation of drug and alcohol programs that contain prevention, intervention, and aftercare components. [1987 c 518 § 205. Formerly RCW 28A.120.030.]

Intent—Severability—1987 c 518: See notes following RCW 28A.215.150.

Prohibition on use of tobacco products on school property: RCW 28A.210.310.

28A.170.020 Rules—Grants—Program areas eligible for funding. The superintendent of public instruction shall adopt rules to implement this section, RCW 28A.170.010, and 28A.170.030 through 28A.170.070 and shall distribute to school districts on a grant basis, from moneys appropriated for the purposes of this section, RCW 28A.170.010, and 28A.170.030 through 28A.170.070, funds for the development and implementation of educational and disciplinary policies leading to the implementation of prevention, intervention, and aftercare activities regarding the use and abuse of drugs and alcohol. The following program areas may be funded through moneys made available for this section, RCW 28A.170.010, and 28A.170.030 through 28A.170.070, including but not limited to:

- (1) Comprehensive program development;
- (2) Prevention programs directed at addressing addictive substances such as alcohol, drugs, and nicotine;
- (3) Elementary identification and intervention programs including counseling programs;
- (4) Secondary identification and intervention programs including counseling programs;
- (5) School drug and alcohol core team development and training;
- (6) Development of referral and preassessment procedures;
- (7) Aftercare;
- (8) Drug and alcohol specialist;
- (9) Staff, parent, student, and community training; and
- (10) Coordination with law enforcement, community service providers, other school districts, educational service districts, and drug and alcohol treatment facilities. [1990 c 33 § 153; 1989 c 233 § 5; 1987 c 518 § 206. Formerly RCW 28A.120.032.]

Intent—Severability—1987 c 518: See notes following RCW 28A.215.150.

28A.170.030 Application for funding—Procedure. (1) School districts interested in implementing a substance abuse awareness program shall file an application for state funds with the superintendent of public instruction. The application shall include the following:

- (a) A letter of commitment from the board of directors to adopt a comprehensive written policy on drugs and alcohol, and a proposed substance awareness abuse program and implementation plan, within six months of receipt of

state funding. The comprehensive policy and program shall address the issues of prevention, intervention, aftercare, and disciplinary policies, and shall emphasize cooperation and coordination of services among public and private agencies, including law enforcement agencies. If the district's board of directors has already adopted a comprehensive policy and plan, the district shall submit a copy of the comprehensive policy and plan;

(b) A letter of commitment from the board of directors to appoint a school and community substance abuse advisory committee if such a committee has not been established. The advisory committee shall include representatives of at least the following: The school district instructional staff, students, parents, state and local government law enforcement personnel, and the county coordinator of alcohol and drug treatment, or his or her designee, or a representative of other treatment service providers. If the district has already established an advisory committee but its membership does not include members representing any of the groups identified in this subsection, the board of directors shall appoint an additional member or members, if necessary, accordingly. The advisory committee shall work to help coordinate school district programs and services with programs and services available within the community and thereby contribute toward the development of a continuum of prevention, intervention, and after care services within the total community and to avoid the duplication of services; and

(c) A copy of the district's assessment of the scope of the problem of drug and alcohol abuse within the district, as such use and abuse by individuals affects the learning environment in each school.

(2) The district shall demonstrate its plan to provide local matching funds of an amount equal to at least twenty percent of the state funds that the district is eligible to receive. Matching funds may be funds received from federal programs, other funds available to the district, or in-kind contributions: PROVIDED, That in-kind contributions shall be not more than one-half of the minimum matching funds required.

(3) The district shall provide an outline of procedures for evaluating the effectiveness of the district's substance abuse awareness program.

(4) Joint applications and programs may be undertaken by school districts. Districts which elect to participate in a joint program may file a joint application and establish a joint school and community substance abuse advisory committee. [1987 c 518 § 207. Formerly RCW 28A.120.034.]

Intent—Severability—1987 c 518: See notes following RCW 28A.215.150.

28A.170.040 Application for continued funding—

Contents. School districts may apply on an annual basis to the superintendent of public instruction for continued funding of a local substance abuse awareness program meeting the provisions of RCW 28A.170.020 through 28A.170.070 and shall submit an application that includes: (1) Verification of the adoption of comprehensive district policies; (2) proposed changes to the district's substance abuse awareness program, where necessary; (3) proposed areas of expenditures; (4) the district's plan to provide matching funds of an amount to equal at least twenty percent of the state funds for which the

district is eligible; (5) a plan for program evaluation; and (6) a report evaluating the effectiveness of the previously funded program one year after the program is implemented, including all the information required in this section. [1990 c 33 § 154; 1987 c 518 § 208. Formerly RCW 28A.120.036.]

Intent—Severability—1987 c 518: See notes following RCW 28A.215.150.

28A.170.050 Advisory committee—Members—

Duties. The superintendent of public instruction shall appoint a substance abuse advisory committee comprised of: Representatives of certificated and noncertificated staff; administrators; parents; students; school directors; the bureau of alcohol and substance abuse within the department of social and health services; the traffic safety commission; and county coordinators of alcohol and drug treatment. The committee shall advise the superintendent on matters of local program development, coordination, and evaluation. [1987 c 518 § 209. Formerly RCW 28A.120.038.]

Intent—Severability—1987 c 518: See notes following RCW 28A.215.150.

28A.170.060 Information about programs and penalties—Duties of superintendent through state clearinghouse for education information.

The superintendent of public instruction, through the state clearinghouse for education information, shall collect and disseminate to all school districts and other interested parties information about effective substance abuse programs and the penalties for manufacturing, selling, delivering, or possessing controlled substances on or within one thousand feet of a school or school bus route stop under RCW 69.50.435 and distributing a controlled substance to a person under the age of eighteen under RCW 69.50.406. [1989 c 271 § 113; 1987 c 518 § 210. Formerly RCW 28A.120.040.]

Severability—1989 c 271: See note following RCW 9.94A.310.

Intent—Severability—1987 c 518: See notes following RCW 28A.215.150.

28A.170.070 Conflict with federal laws—RCW

28A.170.020 through 28A.170.060. If any part of RCW 28A.170.020 through 28A.170.060 is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, the conflicting part of RCW 28A.170.020 through 28A.170.060 is hereby declared to be 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 RCW 28A.170.020 through 28A.170.060 in its application to the agencies concerned. The rules under RCW 28A.170.020 through 28A.170.060 shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state. [1990 c 33 § 155; 1987 c 518 § 211. Formerly RCW 28A.120.050.]

Intent—Severability—1987 c 518: See notes following RCW 28A.215.150.

28A.170.075 Findings—Intent. (1) The legislature finds that the provision of drug and alcohol counseling and related prevention and intervention services in schools will enhance the classroom environment for students and teach-

ers, and better enable students to realize their academic and personal potentials.

(2) The legislature finds that it is essential that resources be made available to school districts to provide early drug and alcohol prevention and intervention services to students and their families; to assist in referrals to treatment providers; and to strengthen the transition back to school for students who have had problems of drug and alcohol abuse.

(3) New and existing substance abuse awareness programs funded pursuant to RCW 28A.170.010 through 28A.170.070 do not fall within the definition of basic education for purposes of Article IX of the state Constitution and the state's funding duty thereunder.

(4) The legislature intends to provide grants for drug and alcohol abuse prevention and intervention in schools, targeted to those schools with the highest concentrations of students at risk. [1990 c 33 § 156; 1989 c 271 § 310. Formerly RCW 28A.120.080.]

Severability—1989 c 271: See note following RCW 9.94A.310.

28A.170.080 Grants—Substance abuse intervention.

(1) Grants provided under RCW 28A.170.090 may be used solely for services provided by a substance abuse intervention specialist or for dedicated staff time for counseling and intervention services provided by any school district certificated employee who has been trained by and has access to consultation with a substance abuse intervention specialist. Services shall be directed at assisting students in kindergarten through twelfth grade in overcoming problems of drug and alcohol abuse, and in preventing abuse and addiction to such substances, including nicotine. The grants shall require local matching funds so that the grant amounts support a maximum of eighty percent of the costs of the services funded. The services of a substance abuse intervention specialist may be obtained by means of a contract with a state or community services agency or a drug treatment center. Services provided by a substance abuse intervention specialist may include:

- (a) Individual and family counseling, including preventive counseling;
- (b) Assessment and referral for treatment;
- (c) Referral to peer support groups;
- (d) Aftercare;
- (e) Development and supervision of student mentor programs;
- (f) Staff training, including training in the identification of high-risk children and effective interaction with those children in the classroom; and
- (g) Development and coordination of school drug and alcohol core teams, involving staff, students, parents, and community members.

(2) For the purposes of this section, "substance abuse intervention specialist" means any one of the following, except that diagnosis and assessment, counseling and aftercare specifically identified with treatment of chemical dependency shall be performed only by personnel who meet the same qualifications as are required of a qualified chemical dependency counselor employed by an alcoholism or drug treatment program approved by the department of social and health services.

(a) An educational staff associate employed by a school district or educational service district who holds certification as a school counselor, school psychologist, school nurse, or school social worker under state board of education rules adopted pursuant to RCW 28A.305.130;

(b) An individual who meets the definition of a qualified drug or alcohol counselor established by the bureau of alcohol and substance abuse;

(c) A counselor, social worker, or other qualified professional employed by the department of social and health services;

(d) A psychologist licensed under chapter 18.83 RCW; or

(e) A children's mental health specialist as defined in RCW 71.34.020. [1990 c 33 § 157; 1989 c 271 § 311. Formerly RCW 28A.120.082.]

Severability—1989 c 271: See note following RCW 9.94A.310.

28A.170.090 Selection of grant recipients—Program rules. (1) The superintendent of public instruction shall select school districts and cooperatives of school districts to receive grants for drug and alcohol abuse prevention and intervention programs for students in kindergarten through twelfth grade, from funds appropriated by the legislature for this purpose. The minimum annual grant amount per district or cooperative of districts shall be twenty thousand dollars. Factors to be used in selecting proposals for funding and in determining grant awards shall be developed in consultation with the substance abuse advisory committee appointed under RCW 28A.170.050, with the intent of targeting funding to districts with high-risk populations. These factors may include:

(a) Characteristics of the school attendance areas to be served, such as the number of students from low-income families, truancy rates, juvenile justice referrals, and social services caseloads;

(b) The total number of students who would have access to services; and

(c) Participation of community groups and law enforcement agencies in drug and alcohol abuse prevention and intervention activities.

(2) The application procedures for grants under this section shall be consistent with the application procedures for other grants for substance abuse awareness programs under RCW 28A.170.020, including provisions for comprehensive planning, establishment of a school and community substance abuse advisory committee, and documentation of the district's needs assessment. Planning and application for grants under this section may be integrated with the development of other substance abuse awareness programs by school districts, and other grants under RCW 28A.170.010 through 28A.170.040 shall not require a separate application. School districts shall, to the maximum extent feasible, coordinate the use of grants provided under this section with other funding available for substance abuse awareness programs. School districts should allocate resources giving emphasis to drug and alcohol abuse intervention services for students in grades five through nine. Grants may be used to provide services for students who are enrolled in approved private schools.

(3) School districts receiving grants under this section shall be required to establish a means of accessing formal

assessment services for determining treatment needs of students with drug and alcohol problems. The grant applications submitted by districts shall identify the districts' plan for meeting this requirement.

(4) School districts receiving grants under this section shall be required to perform biennial evaluations of their drug and alcohol abuse prevention and intervention programs, and to report on the results of these evaluations to the superintendent of public instruction.

(5) The superintendent of public instruction may adopt rules to implement RCW 28A.170.080 through 28A.170.100. [1990 c 33 § 158; 1989 c 271 § 312. Formerly RCW 28A.120.084.]

Severability—1989 c 271: See note following RCW 9.94A.310.

28A.170.100 Promotion of parent and community involvement—Program review. (1) School districts are encouraged to promote parent and community involvement in drug and alcohol abuse prevention and intervention programs, through parent visits under RCW 28A.605.020 and through any school involvement program established by the district.

(2) Districts are further encouraged to review drug and alcohol prevention and intervention programs as part of the self-study procedures required under RCW 28A.320.200 and as part of any annual goal-setting process the district may have established under *RCW 28A.320.220. [1991 c 116 § 24; 1990 c 33 § 159; 1989 c 271 § 313. Formerly RCW 28A.120.086.]

*Reviser's note: RCW 28A.320.220 was repealed by 1991 c 116 § 26.

Severability—1989 c 271: See note following RCW 9.94A.310.

Chapter 28A.175

DROPOUT PREVENTION AND RETRIEVAL PROGRAM

Sections	
28A.175.010	Educational progress information—Reporting requirements—Rules—Reports to legislature.
28A.175.020	Intent.
28A.175.030	Grants for program development—Distribution of funds.
28A.175.040	Priorities in awarding grants—Grants to cooperatives—Limitation on total amount of grants.
28A.175.050	Rules.
28A.175.060	Task force—Members—Purpose.
28A.175.070	Information about programs—Duties of superintendent through state clearinghouse for education information.
28A.175.080	High school programs encouraged.
28A.175.090	Attendance at nonresident high schools—Expiration of section.

28A.175.010 Educational progress information—Reporting requirements—Rules—Reports to legislature. Each school district shall account for the educational progress of each of its students. To achieve this, school districts shall be required to report annually to the superintendent of public instruction:

(1) For students enrolled in each of a school district's high school programs:

(a) The number of students eligible for graduation in fewer than four years;

(b) The number of students who graduate in four years;

(c) The number of students who remain in school for more than four years but who eventually graduate and the number of students who remain in school for more than four years but do not graduate;

(d) The number of students who transfer to other schools;

(e) The number of students who enter from other schools;

(f) The number of students in the ninth through twelfth grade who drop out of school over a four-year period; and

(g) The number of students whose status is unknown.

(2) Dropout rates of students in each of the grades nine through twelve.

(3) Dropout rates for student populations in each of the grades nine through twelve by:

(a) Ethnicity;

(b) Gender;

(c) Socioeconomic status; and

(d) Disability status.

(4) The causes or reasons, or both, attributed to students for having dropped out of school in grades nine through twelve.

(5) The superintendent of public instruction shall adopt rules under chapter 34.05 RCW to assure uniformity in the information districts are required to report under subsections (1) through (4) of this section. In developing rules, the superintendent of public instruction shall consult with school districts, including administrative and counseling personnel, with regard to the methods through which information is to be collected and reported.

(6) In reporting on the causes or reasons, or both, attributed to students for having dropped out of school, school building officials shall, to the extent reasonably practical, obtain such information directly from students. In lieu of obtaining such information directly from students, building principals and counselors shall identify the causes or reasons, or both, based on their professional judgment.

(7) The superintendent of public instruction shall report annually to the legislature the information collected under subsections (1) through (4) of this section. [1991 c 235 § 4; 1986 c 151 § 1. Formerly RCW 28A.58.087.]

28A.175.020 Intent. To encourage youth who are considering dropping out of school to remain in school, or youth who have dropped out of school to return to school, it is the intent of the legislature to aid in the planning and implementation of educational programs for such youth. Furthermore, in recognition that effective assistance at the elementary school level will likely reduce the need for dropout intervention at the secondary level, the legislature intends to encourage early identification of and assistance to students not succeeding in school in the elementary grades. [1987 c 518 § 213. Formerly RCW 28A.120.060.]

Intent—Severability—1987 c 518: See notes following RCW 28A.215.150.

28A.175.030 Grants for program development—Distribution of funds. (1) The superintendent of public

instruction is authorized and shall grant funds to selected school districts to assist in the development of student motivation, retention, and retrieval programs for youth who are at risk of dropping out of school or who have dropped out of school. The purpose of the state assistance for such school district programs is to provide districts the necessary money which will encourage the development by districts or cooperatives of districts of integrated programs for students who are at risk of dropping out of school or who have dropped out of school.

(2) Funds as may be appropriated for the purposes of this section and RCW 28A.175.040 through 28A.175.070 shall be distributed to qualifying school districts for initial planning, development, and implementation of educational programs designed to motivate, retain, and retrieve students.

(3) Funds shall be distributed among qualifying school districts on a per pupil basis in accordance with the following state funding formula: To determine the per pupil allocation, the appropriation for this purpose shall be divided by the total full-time equivalent student population of all qualifying districts as determined on October 1 of the first year of each biennium. The resulting dollar amount shall be multiplied by the current school year October 1 total full-time equivalent student population of each qualifying school district to determine the maximum grant that each qualifying school district is eligible to receive. No district may receive more than is necessary for planning and implementation activities outlined in the district's grant application.

(4) The eligibility of a school district or cooperative of school districts to receive program implementation funds shall be determined once every two years.

(5) Should one or more eligible school districts not request funds available under subsection (3) of this section, the funds may be expended or allocated to other qualifying school districts on a nonformula grant basis by the superintendent of public instruction for the purpose of furthering student motivation, retention, and retrieval programs. [1990 c 33 § 160; 1989 c 209 § 1; 1987 c 518 § 214. Formerly RCW 28A.120.062.]

Intent—Severability—1987 c 518: See notes following RCW 28A.215.150.

28A.175.040 Priorities in awarding grants—Grants to cooperatives—Limitation on total amount of grants.

(1) In distributing grant funds, the superintendent of public instruction shall first award funds to each school district with a dropout rate which, as determined by the superintendent of public instruction, is over time in the top twenty-five percent of all districts' dropout rates.

(2) The superintendent may grant funds to a cooperative of districts which may include one district, or more, whose dropout rate is not in the top twenty-five percent of all districts' dropout rates.

(3) The sum of all grants awarded pursuant to RCW 28A.175.030 through 28A.175.070 for a particular biennium shall not exceed the amount appropriated by the legislature for such purposes. [1990 c 33 § 161; 1989 c 209 § 2; 1987 c 518 § 215. Formerly RCW 28A.120.064.]

Intent—Severability—1987 c 518: See notes following RCW 28A.215.150.

28A.175.050 Rules. The superintendent of public instruction shall adopt rules to carry out the purposes of RCW 28A.175.030 through 28A.175.070. The rules adopted by the superintendent of public instruction shall include but not be limited to:

(1) Providing for an annual evaluation of the effectiveness of the program;

(2) Requiring that no less than twenty percent of the moneys from the program implementation grant be used for identification and intervention programs in elementary and middle schools;

(3) Establishing procedures allowing school districts to claim basic education allocation funds for students attending a program conducted under RCW 28A.175.030 through 28A.175.070 outside the regular school-year calendar, to the extent such attendance is in lieu of attendance within the regular school-year calendar; and

(4) Evaluating the number of children within an applicant district who fail to complete their elementary and secondary education with priority going to districts with dropout rates over time in the top twenty-five percent of all districts' dropout rates. [1990 c 33 § 162; 1987 c 518 § 217. Formerly RCW 28A.120.068.]

Intent—Severability—1987 c 518: See notes following RCW 28A.215.150.

28A.175.060 Task force—Members—Purpose. The governor and superintendent of public instruction shall jointly appoint the governor's school dropout prevention task force, cochaired by the governor and the superintendent. The purpose of the task force shall be to make the public aware of the high number of Washington youth who drop out of school, the lifelong economic impact of the decision to drop out, and to encourage all segments of the community to devise new strategies to encourage youth to remain in school.

The task force shall be made up of respected representatives from business, sports, education, the media, students, the legislature, and other sectors of the community. The task force shall promote staying in school through public exposure of the problem and encouraging all sectors of the community to become involved in addressing this serious problem. [1987 c 518 § 218. Formerly RCW 28A.120.070.]

Intent—Severability—1987 c 518: See notes following RCW 28A.215.150.

28A.175.070 Information about programs—Duties of superintendent through state clearinghouse for education information. The superintendent of public instruction, through the state clearinghouse for education information, shall collect and disseminate to all school districts and other interested parties information about effective student motivation, retention, and retrieval programs. [1987 c 518 § 219. Formerly RCW 28A.120.072.]

Intent—Severability—1987 c 518: See notes following RCW 28A.215.150.

28A.175.080 High school programs encouraged. The legislature finds that high schools and high school programs designed to meet the diverse needs of students can be an important factor in decreasing the dropout rate. The

development of alternative high schools, schools-within-schools, student-centered collaborative learning communities utilizing interdisciplinary strategies, and subject-matter-related schools is encouraged.

High schools are also encouraged to develop programs providing for flexibility in daily, weekly, monthly, and yearly schedules. High schools are further encouraged to develop flexible teaching arrangements, including tutor programs which may include the use of adults, high school students, or college students as tutors, with particular encouragement to consider seeking persons from ethnic and racial minority groups to serve as tutors.

High schools are also encouraged to use research that has been proven effective and has produced significant outcomes in working with both potential dropouts and dropouts. [1989 c 233 § 7. Formerly RCW 28A.120.090.]

28A.175.090 Attendance at nonresident high schools—Expiration of section. (1) Beginning with the 1989-1990 school year and concluding at the end of the 1993-1994 school year, any student who has dropped out of high school for six weeks or longer, or has returned from participation in a substance abuse treatment program, or is about to become or is a teen parent, or has returned from hospitalization due to a mental health problem may choose to attend any other high school in the state regardless of residence. Students may attend high school in a nonresident school district only if they are accepted by the high school and pursuant to policies and procedures of the nonresident school district. Receiving school districts may not charge nonresident students tuition. Schools and districts are encouraged to accept students who choose to transfer if they meet these conditions. Basic education funding allocations from the state shall follow the students.

(2) The superintendent of public instruction shall report to the legislature and the governor by December 1, 1994, on the student enrollment patterns pursuant to the provisions of this section.

(3) This section shall expire December 31, 1994. [1989 c 233 § 8. Formerly RCW 28A.120.092.]

Chapter 28A.180

TRANSITIONAL BILINGUAL INSTRUCTION PROGRAM

Sections

28A.180.010	Transitional bilingual instruction program—Short title—Purpose.
28A.180.020	Transitional bilingual instruction program—Annual report by superintendent of public instruction.
28A.180.030	Transitional bilingual instruction program—Definitions.
28A.180.040	Transitional bilingual instruction program—School board duties.
28A.180.050	Transitional bilingual instruction program—Advisory committee participation.
28A.180.060	Transitional bilingual instruction program—Guidelines and rules.
28A.180.070	Transitional bilingual instruction program—School districts may enrich.
28A.180.080	Transitional bilingual instruction program—Budget request for—Allocation of moneys, priorities—English language skills test—Gifts and donations.

28A.180.010 Transitional bilingual instruction program—Short title—Purpose. RCW 28A.180.010 through 28A.180.080 shall be known and cited as "The Transitional Bilingual Instruction Act." The legislature finds that there are large numbers of children who come from homes where the primary language is other than English. The legislature finds that a transitional bilingual education program can meet the needs of these children. Pursuant to the policy of this state to insure equal educational opportunity to every child in this state, it is the purpose of RCW 28A.180.010 through 28A.180.080 to provide for the implementation of transitional bilingual education programs in the public schools, and to provide supplemental financial assistance to school districts to meet the extra costs of these programs. [1990 c 33 § 163; 1984 c 124 § 1; 1979 c 95 § 1. Formerly RCW 28A.58.800.]

Severability—1979 c 95: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1979 c 95 § 9.]

28A.180.020 Transitional bilingual instruction program—Annual report by superintendent of public instruction. The superintendent of public instruction shall review annually the transitional bilingual instruction program and shall submit a report of such review to the legislature on or before January 1 of each year. [1984 c 124 § 8. Formerly RCW 28A.58.801.]

28A.180.030 Transitional bilingual instruction program—Definitions. As used in RCW 28A.180.010 through 28A.180.080, unless the context thereof indicates to the contrary:

(1) "Transitional bilingual instruction" means:

(a) A system of instruction which uses two languages, one of which is English, as a means of instruction to build upon and expand language skills to enable the pupil to achieve competency in English. Concepts and information are introduced in the primary language and reinforced in the second language: PROVIDED, That the program shall include testing in the subject matter in English; or

(b) In those cases in which the use of two languages is not practicable as established by the superintendent of public instruction and unless otherwise prohibited by law, an alternative system of instruction which may include English as a second language and is designed to enable the pupil to achieve competency in English.

(2) "Primary language" means the language most often used by the student for communication in his/her home.

(3) "Eligible pupil" means any enrollee of the school district whose primary language is other than English and whose English language skills are sufficiently deficient or absent to impair learning. [1990 c 33 § 164; 1984 c 124 § 2; 1979 c 95 § 2. Formerly RCW 28A.58.802.]

Severability—1979 c 95: See note following RCW 28A.180.010.

28A.180.040 Transitional bilingual instruction program—School board duties. Every school district board of directors shall:

(1) Make available to each eligible pupil transitional bilingual instruction to achieve competency in English, in accord with rules of the superintendent of public instruction.

(2) Wherever feasible, ensure that communications to parents emanating from the schools shall be appropriately bilingual for those parents of pupils in the bilingual instruction program.

(3) Determine, by administration of an English test approved by the superintendent of public instruction the number of eligible pupils enrolled in the school district at the beginning of a school year and thereafter during the year as necessary in individual cases. If, however, a preliminary interview indicates little or no English speaking ability, eligibility testing shall not be necessary.

(4) Before the conclusion of each school year, measure each eligible pupil's improvement in learning the English language by means of a test approved by the superintendent of public instruction.

(5) Provide in-service training for teachers, counselors, and other staff, who are involved in the district's transitional bilingual program. Such training shall include appropriate instructional strategies for children of culturally different backgrounds, use of curriculum materials, and program models. [1984 c 124 § 3; 1979 c 95 § 3. Formerly RCW 28A.58.804.]

Effective date—1979 c 95 § 3: "Section 3 of this act shall take effect September 1, 1980." [1979 c 95 § 7.] Section 3 of this act [1979 c 95], was codified as RCW 28A.58.804.

Severability—1979 c 95: See note following RCW 28A.180.010.

28A.180.050 Transitional bilingual instruction program—Advisory committee participation. Every school district board of directors may appoint, maintain, and receive recommendations from an advisory committee which includes parents whose children are in the transitional bilingual instruction program, teachers, and other staff members. [1984 c 124 § 4; 1979 c 95 § 4. Formerly RCW 28A.58.806.]

Severability—1979 c 95: See note following RCW 28A.180.010.

28A.180.060 Transitional bilingual instruction program—Guidelines and rules. The superintendent of public instruction shall:

(1) Promulgate and issue program development guidelines to assist school districts in preparing their programs;

(2) Promulgate rules for implementation of RCW 28A.180.010 through 28A.180.080 in accordance with chapter 34.05 RCW. The rules shall be designed to maximize the role of school districts in selecting programs appropriate to meet the needs of eligible students. The rules shall identify the process and criteria to be used to determine when a student is no longer eligible for transitional bilingual instruction pursuant to RCW 28A.180.010 through 28A.180.080. [1990 c 33 § 165; 1984 c 124 § 5; 1979 c 95 § 5. Formerly RCW 28A.58.808.]

Severability—1979 c 95: See note following RCW 28A.180.010.

28A.180.070 Transitional bilingual instruction program—School districts may enrich. School districts may enrich the programs required by RCW 28A.180.010 through 28A.180.080: PROVIDED, That such enrichment

shall not constitute a basic education responsibility of the state. [1990 c 33 § 166; 1984 c 124 § 6. Formerly RCW 28A.58.809.]

28A.180.080 Transitional bilingual instruction program—Budget request for—Allocation of moneys, priorities—English language skills test—Gifts and donations. The superintendent of public instruction shall prepare and submit biennially to the governor and the legislature a budget request for bilingual instruction programs. Moneys appropriated by the legislature for the purposes of RCW 28A.180.010 through 28A.180.080 shall be allocated by the superintendent of public instruction to school districts for the sole purpose of operating an approved bilingual instruction program; priorities for funding shall exist for the early elementary grades. No moneys shall be allocated pursuant to this section to fund more than three school years of bilingual instruction for each eligible pupil within a district: PROVIDED, That such moneys may be allocated to fund more than three school years of bilingual instruction for any pupil who fails to demonstrate improvement in English language skills adequate to remove impairment of learning when taught only in English. The superintendent of public instruction shall set standards and approve a test for the measurement of such English language skills. School districts are hereby empowered to accept grants, gifts, donations, devices and other gratuities from private and public sources to aid in accomplishing the purposes of RCW 28A.180.010 through 28A.180.080. [1990 c 33 § 167; 1979 c 95 § 6. Formerly RCW 28A.58.810.]

Severability—1979 c 95: See note following RCW 28A.180.010.

Chapter 28A.185

HIGHLY CAPABLE STUDENTS

Sections	
28A.185.010	Program—Duties of superintendent of public instruction.
28A.185.020	Funding.
28A.185.030	Programs—Authority of local school districts—Selection of students.
28A.185.040	Contracts with University of Washington for education of highly capable students at early entrance program or transition school—Allocation of funds—Rules.

28A.185.010 Program—Duties of superintendent of public instruction. Pursuant to rules and regulations adopted by the superintendent of public instruction for the administration of this chapter, the superintendent of public instruction shall carry out a program for highly capable students. Such program may include conducting, coordinating and aiding in research (including pilot programs), disseminating information to local school districts, providing statewide staff development, and allocating to school districts supplementary funds for additional costs of district programs, as provided by RCW 28A.185.020. [1984 c 278 § 12. Formerly RCW 28A.16.040.]

Severability—1984 c 278: "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." [1984 c 278 § 24.]

28A.185.020 Funding. Supplementary funds as may be provided by the state for this program, in accordance with RCW 28A.150.370, shall be categorical funding on an excess cost basis based upon a per student amount not to exceed three percent of any district's full-time equivalent enrollment. [1990 c 33 § 168; 1984 c 278 § 14. Formerly RCW 28A.16.050.]

Severability—1984 c 278: See note following RCW 28A.185.010.

28A.185.030 Programs—Authority of local school districts—Selection of students. Local school districts may establish and operate, either separately or jointly, programs for highly capable students. Such authority shall include the right to employ and pay special instructors and to operate such programs jointly with a public institution of higher education. Local school districts which establish and operate programs for highly capable students shall adopt identification procedures and provide educational opportunities as follows:

(1) In accordance with rules and regulations adopted by the superintendent of public instruction, school districts shall implement procedures for nomination, assessment and selection of their most highly capable students. Nominations shall be based upon data from teachers, other staff, parents, students, and members of the community. Assessment shall be based upon a review of each student's capability as shown by multiple criteria intended to reveal, from a wide variety of sources and data, each student's unique needs and capabilities. Selection shall be made by a broadly based committee of professionals, after consideration of the results of the multiple criteria assessment.

(2) Students selected pursuant to procedures outlined in this section shall be provided, to the extent feasible, an educational opportunity which takes into account each student's unique needs and capabilities and the limits of the resources and program options available to the district, including those options which can be developed or provided by using funds allocated by the superintendent of public instruction for that purpose. [1984 c 278 § 13. Formerly RCW 28A.16.060.]

Severability—1984 c 278: See note following RCW 28A.185.010.

28A.185.040 Contracts with University of Washington for education of highly capable students at early entrance program or transition school—Allocation of funds—Rules. (1) The superintendent of public instruction shall contract with the University of Washington for the education of highly capable students below eighteen years of age who are admitted or enrolled at such early entrance program or transition school as are now or hereafter established and maintained by the University of Washington.

(2) The superintendent of public instruction shall allocate directly to the University of Washington all of the state basic education allocation moneys, state categorical moneys excepting categorical moneys provided for the highly capable students program under RCW 28A.185.010 through 28A.185.030, and federal moneys generated by a student while attending an early entrance program or transition school at the University of Washington. The allocations shall be according to each student's school

district of residence. The expenditure of such moneys shall be limited to selection of students, precollege instruction, special advising, and related activities necessary for the support of students while attending a transition school or early entrance program at the University of Washington. Such allocations may be supplemented with such additional payments by other parties as necessary to cover the actual and full costs of such instruction and other activities.

(3) The provisions of subsections (1) and (2) of this section shall apply during the first three years a student is attending a transition school or early entrance program at the University of Washington or through the academic school year in which the student turns eighteen, whichever occurs first. No more than thirty students shall be admitted and enrolled in the transition school at the University of Washington in any one year.

(4) The superintendent of public instruction shall adopt or amend rules pursuant to chapter 34.05 RCW implementing subsection (2) of this section before August 31, 1989. [1990 c 33 § 169; 1989 c 233 § 9; 1987 c 518 § 222. Formerly RCW 28A.58.217.]

Intent—Severability—1987 c 518: See notes following RCW 28A.215.150.

Chapter 28A.190

RESIDENTIAL EDUCATION PROGRAMS

Sections

28A.190.010	Educational program for juveniles in detention facilities.
28A.190.020	Educational programs for residential school residents—"Residential school" defined.
28A.190.030	Educational programs for residential school residents—School district to conduct—Scope of duties and authority.
28A.190.040	Educational programs for residential school residents—Duties and authority of DSHS and residential school superintendent.
28A.190.050	Educational programs for residential school residents—Contracts between school district and DSHS—Scope.
28A.190.060	Educational programs for residential school residents—DSHS to give notice when need for reduction of staff—Liability upon failure.

28A.190.010 Educational program for juveniles in detention facilities. A program of education shall be provided for by the department of social and health services and the several school districts of the state for common school age persons who have been admitted to facilities staffed and maintained by the department of social and health services for the education and treatment of juveniles who have been diverted or who have been found to have committed a juvenile offense. The division of duties, authority, and liabilities of the department of social and health services and the several school districts of the state respecting the educational programs shall be the same in all respects as set forth in RCW 28A.190.030 through 28A.190.060 respecting programs of education for state residential school residents. For the purposes of this section, the term "residential school" or "schools" as used in RCW 28A.190.030 through 28A.190.060 shall be construed to mean a facility staffed and maintained by the department of social and health services for the education and treatment of

juvenile offenders on probation or parole. Nothing in this section shall prohibit a school district from utilizing the services of an educational service district subject to RCW 28A.310.180. [1990 c 33 § 170; 1983 c 98 § 3. Formerly RCW 28A.58.765.]

Juvenile facilities, educational programs: RCW 13.04.145.

28A.190.020 Educational programs for residential school residents—"Residential school" defined. The term "residential school" as used in RCW 28A.190.020 through 28A.190.060, 72.01.200, 72.05.010 and 72.05.130, each as now or hereafter amended, shall mean Green Hill school, Maple Lane school, Naselle Youth Camp, Cedar Creek Youth Camp, Mission Creek Youth Camp, Echo Glen, Lakeland Village, Rainier school, Yakima Valley school, Interlake school, Fircrest school, Francis Haddon Morgan Center, the Child Study and Treatment Center and Secondary School of Western State Hospital, and such other schools, camps, and centers as are now or hereafter established by the department of social and health services for the diagnosis, confinement and rehabilitation of juveniles committed by the courts or for the care and treatment of persons who are exceptional in their needs by reason of mental and/or physical deficiency: PROVIDED, That the term shall not include the state schools for the deaf and blind or adult correctional institutions. [1990 c 33 § 171; 1979 ex.s. c 217 § 1. Formerly RCW 28A.58.770.]

Effective date—1979 ex.s. c 217: "This act shall take effect on September 1, 1979." [1979 ex.s. c 217 § 16.]

Severability—1979 ex.s. c 217: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 217 § 17.]

28A.190.030 Educational programs for residential school residents—School district to conduct—Scope of duties and authority. Each school district within which there is located a residential school shall, singly or in concert with another school district pursuant to RCW 28A.335.160 and 28A.225.250 or pursuant to chapter 39.34 RCW, conduct a program of education, including related student activities, for residents of the residential school. Except as otherwise provided for by contract pursuant to RCW 28A.190.050, the duties and authority of a school district and its employees to conduct such a program shall be limited to the following:

(1) The employment, supervision and control of administrators, teachers, specialized personnel and other persons, deemed necessary by the school district for the conduct of the program of education;

(2) The purchase, lease or rental and provision of textbooks, maps, audio-visual equipment, paper, writing instruments, physical education equipment and other instructional equipment, materials and supplies, deemed necessary by the school district for the conduct of the program of education;

(3) The development and implementation, in consultation with the superintendent or chief administrator of the residential school or his or her designee, of the curriculum;

(4) The conduct of a program of education, including related student activities, for residents who are three years of age and less than twenty-one years of age, and have not met high school graduation requirements as now or hereafter

established by the state board of education and the school district which includes:

(a) Not less than one hundred and eighty school days each school year;

(b) Special education pursuant to RCW 28A.155.010 through 28A.155.100, and vocational education, as necessary to address the unique needs and limitations of residents; and

(c) Such courses of instruction and school related student activities as are provided by the school district for nonresidential school students to the extent it is practical and judged appropriate for the residents by the school district after consultation with the superintendent or chief administrator of the residential school: PROVIDED, That a pre-school special education program may be provided for handicapped residential school students;

(5) The control of students while participating in a program of education conducted pursuant to this section and the discipline, suspension or expulsion of students for violation of reasonable rules of conduct adopted by the school district; and

(6) The expenditure of funds for the direct and indirect costs of maintaining and operating the program of education that are appropriated by the legislature and allocated by the superintendent of public instruction for the exclusive purpose of maintaining and operating residential school programs of education, and funds from federal and private grants, bequests and gifts made for the purpose of maintaining and operating the program of education. [1990 c 33 § 172; 1985 c 341 § 13; 1984 c 160 § 3; 1979 ex.s. c 217 § 2. Formerly RCW 28A.58.772.]

Effective date—1985 c 341 §§ 4, 13: See note following RCW 28A.155.020.

Severability—1984 c 160: See note following RCW 28A.155.020.

Effective date—Severability—1979 ex.s. c 217: See notes following RCW 28A.190.020.

28A.190.040 Educational programs for residential school residents—Duties and authority of DSHS and residential school superintendent. The duties and authority of the department of social and health services and of each superintendent or chief administrator of a residential school to support each program of education conducted by a school district pursuant to RCW 28A.190.030, shall include the following:

(1) The provision of transportation for residential school students to and from the sites of the program of education through the purchase, lease or rental of school buses and other vehicles as necessary;

(2) The provision of safe and healthy building and playground space for the conduct of the program of education through the construction, purchase, lease or rental of such space as necessary;

(3) The provision of furniture, vocational instruction machines and tools, building and playground fixtures, and other equipment and fixtures for the conduct of the program of education through construction, purchase, lease or rental as necessary;

(4) The provision of heat, lights, telephones, janitorial services, repair services, and other support services for the vehicles, building and playground spaces, equipment and fixtures provided for in this section;

(5) The employment, supervision and control of persons to transport students and to maintain the vehicles, building and playground spaces, equipment and fixtures, provided for in this section;

(6) Clinical and medical evaluation services necessary to a determination by the school district of the educational needs of residential school students; and

(7) Such other support services and facilities as are reasonably necessary for the conduct of the program of education. [1990 c 33 § 173; 1979 ex.s. c 217 § 3. Formerly RCW 28A.58.774.]

Effective date—Severability—1979 ex.s. c 217: See notes following RCW 28A.190.020.

28A.190.050 Educational programs for residential school residents—Contracts between school district and DSHS—Scope. Each school district required to conduct a program of education pursuant to RCW 28A.190.030, and the department of social and health services shall hereafter negotiate and execute a written contract for each school year or such longer period as may be agreed to which delineates the manner in which their respective duties and authority will be cooperatively performed and exercised, and any disputes and grievances resolved. Any such contract may provide for the performance of duties by a school district in addition to those set forth in RCW 28A.190.030 (1) through (5), including duties imposed upon the department of social and health services and its agents pursuant to RCW 28A.190.040: PROVIDED, That funds identified in RCW 28A.190.030(6) and/or funds provided by the department of social and health services are available to fully pay the direct and indirect costs of such additional duties and the district is otherwise authorized by law to perform such duties in connection with the maintenance and operation of a school district. [1990 c 33 § 174; 1979 ex.s. c 217 § 4. Formerly RCW 28A.58.776.]

Effective date—Severability—1979 ex.s. c 217: See notes following RCW 28A.190.020.

28A.190.060 Educational programs for residential school residents—DSHS to give notice when need for reduction of staff—Liability upon failure. The department of social and health services shall provide written notice on or before April 15th of each school year to the superintendent of each school district conducting a program of education pursuant to RCW 28A.190.030 through 28A.190.050 of any foreseeable residential school closure, reduction in the number of residents, or any other cause for a reduction in the school district's staff for the next school year. In the event the department of social and health services fails to provide notice as prescribed by this section, the department shall be liable and responsible for the payment of the salary and employment related costs for the next school year of each school district employee whose contract the school district would have nonrenewed but for the failure of the department to provide notice. [1990 c 33 § 175; 1979 ex.s. c 217 § 5. Formerly RCW 28A.58.778.]

Effective date—Severability—1979 ex.s. c 217: See notes following RCW 28A.190.020.

Chapter 28A.195 PRIVATE SCHOOLS

Sections

28A.195.010	Private schools—Extension programs for parents to teach children in their custody—Scope of state control—Generally.
28A.195.020	Private schools—Rights recognized.
28A.195.030	Private schools—Actions appealable under Administrative Procedure Act.
28A.195.040	Private schools—Board rules for enforcement—Racial segregation or discrimination prohibited.
28A.195.050	Private school advisory committee.
28A.195.060	Private schools must report attendance.

28A.195.010 Private schools—Extension programs for parents to teach children in their custody—Scope of state control—Generally. (Contingent expiration date.) The legislature hereby recognizes that private schools should be subject only to those minimum state controls necessary to insure the health and safety of all the students in the state and to insure a sufficient basic education to meet usual graduation requirements. The state, any agency or official thereof, shall not restrict or dictate any specific educational or other programs for private schools except as hereinafter in this section provided.

Principals of private schools or superintendents of private school districts shall file each year with the state superintendent of public instruction a statement certifying that the minimum requirements hereinafter set forth are being met, noting any deviations. After review of the statement, the state superintendent will notify schools or school districts of those deviations which must be corrected. In case of major deviations, the school or school district may request and the state board of education may grant provisional status for one year in order that the school or school district may take action to meet the requirements. Minimum requirements shall be as follows:

(1) The minimum school year for instructional purposes shall consist of no less than one hundred eighty school days or the equivalent in annual minimum program hour offerings as prescribed in RCW 28A.150.220.

(2) The school day shall be the same as that required in RCW 28A.150.030 and 28A.150.220, except that the percentages of total program hour offerings as prescribed in RCW 28A.150.220 for basic skills, work skills, and optional subjects and activities shall not apply to private schools or private sectarian schools.

(3) All classroom teachers shall hold appropriate Washington state certification except as follows:

(a) Teachers for religious courses or courses for which no counterpart exists in public schools shall not be required to obtain a state certificate to teach those courses.

(b) In exceptional cases, people of unusual competence but without certification may teach students so long as a certified person exercises general supervision. Annual written statements shall be submitted to the office of the superintendent of public instruction reporting and explaining such circumstances.

(4) An approved private school may operate an extension program for parents, guardians, or persons having legal custody of a child to teach children in their custody. The extension program shall require at a minimum that:

(a) The parent, guardian, or custodian be under the supervision of an employee of the approved private school who is certified under chapter 28A.410 RCW;

(b) The planning by the certified person and the parent, guardian, or person having legal custody include objectives consistent with this subsection and subsections (1), (2), (5), (6), and (7) of this section;

(c) The certified person spend a minimum average each month of one contact hour per week with each student under his or her supervision who is enrolled in the approved private school extension program;

(d) Each student's progress be evaluated by the certified person; and

(e) The certified employee shall not supervise more than thirty students enrolled in the approved private school's extension program.

(5) Appropriate measures shall be taken to safeguard all permanent records against loss or damage.

(6) The physical facilities of the school or district shall be adequate to meet the program offered by the school or district: PROVIDED, That each school building shall meet reasonable health and fire safety requirements. A residential dwelling of the parent, guardian, or custodian shall be deemed to be an adequate physical facility when a parent, guardian, or person having legal custody is instructing his or her child under subsection (4) of this section.

(7) Private school curriculum shall include instruction of the basic skills of occupational education, science, mathematics, language, social studies, history, health, reading, writing, spelling, and the development of appreciation of art and music, all in sufficient units for meeting state board of education graduation requirements.

(8) Each school or school district shall be required to maintain up-to-date policy statements related to the administration and operation of the school or school district.

All decisions of policy, philosophy, selection of books, teaching material, curriculum, except as in subsection (7) above provided, school rules and administration, or other matters not specifically referred to in this section, shall be the responsibility of the administration and administrators of the particular private school involved. [1990 c 33 § 176. Prior: 1985 c 441 § 4; 1985 c 16 § 1; 1983 c 56 § 1; 1977 ex.s. c 359 § 9; 1975 1st ex.s. c 275 § 71; 1974 ex.s. c 92 § 2. Formerly RCW 28A.02.201.]

Severability—1985 c 441: See note following RCW 28A.225.010.

Severability—1983 c 56: "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." [1983 c 56 § 18.]

Effective date—Severability—1977 ex.s. c 359: See notes following RCW 28A.150.200.

Authorization for private school students to ride buses—Conditions: RCW 28A.160.020.

Basic Education Act, RCW 28A.195.010 as part of: RCW 28A.150.200.

Commencement exercises—Lip reading instruction—Joint purchasing, including issuing interest bearing warrants—Budgets: RCW 28A.320.080.

Home-based instruction: RCW 28A.200.010.

Immigration program, private schools as affecting: RCW 28A.210.060 through 28A.210.170.

Part-time students—Defined—Enrollment in public schools authorized: RCW 28A.150.350.

Real property—Sale—Notice of and hearing on—Appraisal required—Broker or real estate appraiser services—Real estate sales contracts, limitation: RCW 28A.335.120.

Surplus school property, rental, lease or use of—Authorized—Limitations: RCW 28A.335.040.

Surplus texts and other educational aids, notice of availability—Student priority as to texts: RCW 28A.335.180.

28A.195.010 Private schools—Extension programs for parents to teach children in their custody—Scope of state control—Generally. (Contingent effective date.) The legislature hereby recognizes that private schools should be subject only to those minimum state controls necessary to ensure the health and safety of all the students in the state and to ensure a sufficient basic education to meet usual graduation requirements. The state, any agency or official thereof, shall not restrict or dictate any specific educational or other programs for private schools except as hereinafter in this section provided.

Principals of private schools or superintendents of private school districts shall file each year with the state superintendent of public instruction a statement certifying that the minimum requirements hereinafter set forth are being met, noting any deviations. After review of the statement, the state superintendent will notify schools or school districts of those deviations which must be corrected. In case of major deviations, the school or school district may request and the state board of education may grant provisional status for one year in order that the school or school district may take action to meet the requirements. Minimum requirements shall be as follows:

(1) The minimum school year for instructional purposes shall consist of no less than one hundred eighty school days or the equivalent in annual minimum instructional hour offerings as prescribed in RCW 28A.150.220.

(2) All classroom teachers shall hold appropriate Washington state certification except as follows:

(a) Teachers for religious courses or courses for which no counterpart exists in public schools shall not be required to obtain a state certificate to teach those courses.

(b) In exceptional cases, people of unusual competence but without certification may teach students so long as a certified person exercises general supervision. Annual written statements shall be submitted to the office of the superintendent of public instruction reporting and explaining such circumstances.

(3) An approved private school may operate an extension program for parents, guardians, or persons having legal custody of a child to teach children in their custody. The extension program shall require at a minimum that:

(a) The parent, guardian, or custodian be under the supervision of an employee of the approved private school who is certified under chapter 28A.410 RCW;

(b) The planning by the certified person and the parent, guardian, or person having legal custody include objectives consistent with this subsection and subsections (1), (4), (5), and (6) of this section;

(c) The certified person spend a minimum average each month of one contact hour per week with each student under his or her supervision who is enrolled in the approved private school extension program;

(d) Each student's progress be evaluated by the certified person; and

(e) The certified employee shall not supervise more than thirty students enrolled in the approved private school's extension program.

(4) Appropriate measures shall be taken to safeguard all permanent records against loss or damage.

(5) The physical facilities of the school or district shall be adequate to meet the program offered by the school or district: PROVIDED, That each school building shall meet reasonable health and fire safety requirements. A residential dwelling of the parent, guardian, or custodian shall be deemed to be an adequate physical facility when a parent, guardian, or person having legal custody is instructing his or her child under subsection (3) of this section.

(6) Private school curriculum shall include, but not be limited to, instruction in the basic skills of occupational education, science, mathematics, language, social studies, history, health, reading, writing, spelling, and the development of appreciation of art and music, all in sufficient units so that students are able to master the essential academic learning requirements under *RCW 28A.630.885 and meet state board of education graduation requirements.

(7) Each school or school district shall be required to maintain up-to-date policy statements related to the administration and operation of the school or school district.

All decisions of policy, philosophy, selection of books, teaching material, curriculum, except as provided in subsection (6) of this section, school rules and administration, or other matters not specifically referred to in this section, shall be the responsibility of the administration and administrators of the particular private school involved. [1992 c 141 § 505; 1990 c 33 § 176. Prior: 1985 c 441 § 4; 1985 c 16 § 1; 1983 c 56 § 1; 1977 ex.s. c 359 § 9; 1975 1st ex.s. c 275 § 71; 1974 ex.s. c 92 § 2. Formerly RCW 28A.02.201.]

*Reviser's note: See note following RCW 28A.630.885.

Contingent effective date—1992 c 141 §§ 501-507: See note following RCW 28A.150.210.

Findings—Part headings—Severability—1992 c 141: See notes following RCW 28A.410.040.

Severability—1985 c 441: See note following RCW 28A.225.010.

Severability—1983 c 56: "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." [1983 c 56 § 18.]

Effective date—Severability—1977 ex.s. c 359: See notes following RCW 28A.150.200.

Authorization for private school students to ride buses—Conditions: RCW 28A.160.020.

Basic Education Act, RCW 28A.195.010 as part of: RCW 28A.150.200.

Commencement exercises—Lip reading instruction—Joint purchasing, including issuing interest bearing warrants—Budgets: RCW 28A.320.080.

Home-based instruction: RCW 28A.200.010.

Immunization program, private schools as affecting: RCW 28A.210.060 through 28A.210.170.

Part-time students—Defined—Enrollment in public schools authorized: RCW 28A.150.350.

Real property—Sale—Notice of and hearing on—Appraisal required—Broker or real estate appraiser services—Real estate sales contracts, limitation: RCW 28A.335.120.

Surplus school property, rental, lease or use of—Authorized—Limitations: RCW 28A.335.040.

Surplus texts and other educational aids, notice of availability—Student priority as to texts: RCW 28A.335.180.

28A.195.020 Private schools—Rights recognized. The state recognizes the following rights of every private school:

(1) To teach their religious beliefs and doctrines, if any; to pray in class and in assemblies; to teach patriotism including requiring students to salute the flag of the United States if that be the custom of the particular private school.

(2) To require that there shall be on file the written consent of parents or guardians of students prior to the administration of any psychological test or the conduct of any type of group therapy. [1974 ex.s. c 92 § 3; 1971 ex.s. c 215 § 5. Formerly RCW 28A.02.220.]

Severability—1971 ex.s. c 215: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 215 § 8.]

28A.195.030 Private schools—Actions appealable under Administrative Procedure Act. Any private school may appeal the actions of the state superintendent of public instruction or state board of education as provided in chapter 34.05 RCW. [1974 ex.s. c 92 § 4; 1971 ex.s. c 215 § 6. Formerly RCW 28A.02.230.]

28A.195.040 Private schools—Board rules for enforcement—Racial segregation or discrimination prohibited. The state board of education shall promulgate rules and regulations for the enforcement of RCW 28A.195.010 through 28A.195.040, 28A.225.010, and 28A.305.130, including a provision which denies approval to any school engaging in a policy of racial segregation or discrimination. [1990 c 33 § 177; 1983 c 3 § 29; 1974 ex.s. c 92 § 5; 1971 ex.s. c 215 § 7. Formerly RCW 28A.02.240.]

28A.195.050 Private school advisory committee. The superintendent of public instruction is hereby directed to appoint a private school advisory committee that is broadly representative of educators, legislators, and various private school groups in the state of Washington. [1984 c 40 § 1; 1974 ex.s. c 92 § 6. Formerly RCW 28A.02.250.]

Severability—1984 c 40: "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." [1984 c 40 § 17.]

28A.195.060 Private schools must report attendance. It shall be the duty of the administrative or executive authority of every private school in this state to report to the educational service district superintendent on or before the thirtieth day of June in each year, on a form to be furnished, such information as may be required by the superintendent of public instruction, to make complete the records of education work pertaining to all children residing within the state. [1975 1st ex.s. c 275 § 70; 1969 ex.s. c 176 § 111; 1969 ex.s. c 223 § 28A.48.055. Prior: 1933 c 28 § 14; 1913 c 158 § 1; 1909 c 97 p 313 § 6; RRS § 4876. Formerly RCW 28A.48.055, 28.48.055, 28.27.020.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

Chapter 28A.200

HOME-BASED INSTRUCTION

Sections

28A.200.010	Home-based instruction—Duties of parents.
28A.200.020	Home-based instruction—Certain decisions responsibility of parent unless otherwise specified.

28A.200.010 Home-based instruction—Duties of parents. Each parent whose child is receiving home-based instruction under RCW 28A.225.010(4) shall have the duty to:

(1) File annually a signed declaration of intent that he or she is planning to cause his or her child to receive home-based instruction. The statement shall include the name and age of the child, shall specify whether a certificated person will be supervising the instruction, and shall be written in a format prescribed by the superintendent of public instruction. Each parent shall file the statement by September 15 of the school year or within two weeks of the beginning of any public school quarter, trimester, or semester with the superintendent of the public school district within which the parent resides;

(2) Ensure that test scores or annual academic progress assessments and immunization records, together with any other records that are kept relating to the instructional and educational activities provided, are forwarded to any other public or private school to which the child transfers. At the time of a transfer to a public school, the superintendent of the local school district in which the child enrolls may require a standardized achievement test to be administered and shall have the authority to determine the appropriate grade and course level placement of the child after consultation with parents and review of the child's records; and

(3) Ensure that a standardized achievement test approved by the state board of education is administered annually to the child by a qualified individual or that an annual assessment of the student's academic progress is written by a certificated person who is currently working in the field of education. The standardized test administered or the annual academic progress assessment written shall be made a part of the child's permanent records. If, as a result of the annual test or assessment, it is determined that the child is not making reasonable progress consistent with his or her age or stage of development, the parent shall make a good faith effort to remedy any deficiency.

Failure of a parent to comply with the duties in this section shall be deemed a failure of such parent's child to attend school without valid justification under RCW 28A.225.020. Parents who do comply with the duties set forth in this section shall be presumed to be providing home-based instruction as set forth in RCW 28A.225.010(4). [1990 c 33 § 178; 1985 c 441 § 2. Formerly RCW 28A.27.310.]

Severability—1985 c 441: See note following RCW 28A.225.010.

Part-time students—Defined—Enrollment in public schools authorized: RCW 28A.150.350.

Private schools—Extension programs for parents to teach children in their custody: RCW 28A.195.010.

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28A.200.020 Home-based instruction—Certain decisions responsibility of parent unless otherwise specified. The state hereby recognizes that parents who are causing their children to receive home-based instruction under RCW 28A.225.010(4) shall be subject only to those minimum state laws and regulations which are necessary to insure that a sufficient basic educational opportunity is provided to the children receiving such instruction. Therefore, all decisions relating to philosophy or doctrine, selection of books, teaching materials and curriculum, and methods, timing, and place in the provision or evaluation of home-based instruction shall be the responsibility of the parent except for matters specifically referred to in this chapter. [1990 c 33 § 179; 1985 c 441 § 3. Formerly RCW 28A.27.320.]

Severability—1985 c 441: See note following RCW 28A.225.010.

Chapter 28A.205

EDUCATIONAL CLINICS

Sections

28A.205.010	"Educational clinic," "basic academic skills," defined—Certification as educational clinic and withdrawal thereof.
28A.205.020	Reimbursement only for eligible common school dropouts.
28A.205.030	Reentry of prior dropouts into common schools, rules—Eligibility for GED test.
28A.205.040	Reimbursement procedure—Schedule of fees, revision—Priority for payment—Review of clinic's records.
28A.205.050	Rules and regulations—Legislative review of criteria utilized for reimbursement purposes.
28A.205.060	Report to legislature by superintendent of public instruction—Contents—Update.
28A.205.070	Allocation of funds—Criteria—Duties of superintendent.
28A.205.080	Legislative findings—Distribution of funds—Cooperation with school districts.
28A.205.090	Inclusion of educational clinics program in biennial budget request—Quarterly plans—Funds—Payment.

28A.205.010 "Educational clinic," "basic academic skills," defined—Certification as educational clinic and withdrawal thereof. (1) As used in this chapter, unless the context thereof shall clearly indicate to the contrary:

Educational clinic means any private school operated on a profit or nonprofit basis which does the following:

(a) Is devoted to the teaching of basic academic skills, including specific attention to improvement of student motivation for achieving, and employment orientation.

(b) Operates on a clinical, client centered basis. This shall include, but not be limited to, performing diagnosis of individual educational abilities, determination and setting of individual goals, prescribing and providing individual courses of instruction therefor, and evaluation of each individual client's progress in his or her educational program.

(c) Conducts courses of instruction by professionally trained personnel certificated by the state board of education according to rules and regulations promulgated for the purposes of this chapter and providing, for certification purposes, that a year's teaching experience in an educational

clinic shall be deemed equal to a year's teaching experience in a common or private school.

(2) For purposes of this chapter, basic academic skills shall include the study of mathematics, speech, language, reading and composition, science, history, literature and political science or civics; it shall not include courses of a vocational training nature and shall not include courses deemed nonessential to the accrediting of the common schools or the approval of private schools under RCW 28A.305.130.

(3) The state board of education shall certify an education clinic only upon application and (a) determination that such school comes within the definition thereof as set forth in subsection (1) above and (b) demonstration on the basis of actual educational performance of such applicants' students which shows after consideration of their students' backgrounds, educational gains that are a direct result of the applicants' educational program. Such certification may be withdrawn if the board finds that a clinic fails to provide adequate instruction in basic academic skills. No educational clinic certified by the state board of education pursuant to this section shall be deemed a common school under RCW 28A.150.020 or a private school for the purposes of RCW 28A.195.010 through 28A.195.050. [1990 c 33 § 180; 1983 c 3 § 38; 1977 ex.s. c 341 § 1. Formerly RCW 28A.97.010.]

Severability—1977 ex.s. c 341: "If any provision of this 1977 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 341 § 7.]

28A.205.020 Reimbursement only for eligible common school dropouts. Only eligible common school dropouts shall be enrolled in a certified educational clinic for reimbursement by the superintendent of public instruction as provided in RCW 28A.205.040. No person shall be considered an eligible common school dropout who (1) has completed high school, (2) who has not reached his or her thirteenth birthday or has passed his or her twentieth birthday, or (3) shows proficiency beyond the high school level in a test approved by the superintendent of public instruction to be given as part of the initial diagnostic procedure, or (4) until one month has passed after he or she has dropped out of any common school and the educational clinic has received written verification from a school official of the common school last attended in this state that such person is no longer in attendance at such school, unless such clinic has been requested to admit such person by written communication of the board of directors or its designee, of that common school, or unless such person is unable to attend a particular common school because of disciplinary reasons, including suspension and/or expulsion therefrom. The fact that any person may be subject to RCW 28A.225.010 through 28A.225.150, 28A.200.010, and 28A.200.020 shall not affect his or her qualifications as an eligible common school dropout under this chapter. [1990 c 33 § 181; 1979 ex.s. c 174 § 1; 1977 ex.s. c 341 § 2. Formerly RCW 28A.97.020.]

Severability—1979 ex.s. c 174: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 174 § 4.]

Severability—1977 ex.s. c 341: See note following RCW 28A.205.010.

28A.205.030 Reentry of prior dropouts into common schools, rules—Eligibility for GED test. The superintendent of public instruction shall adopt, by rules, policies and procedures to permit a prior common school dropout to reenter at the grade level appropriate to such individual's ability: PROVIDED, That such individual shall be placed with the class he or she would be in had he or she not dropped out and graduate with that class, if the student's ability so permits notwithstanding any loss of credits prior to reentry and if such student earns credits at the normal rate subsequent to reentry.

Notwithstanding any other provision of law, any certified educational clinic student, upon completion of an individual student program and irrespective of age, shall be eligible to take the general educational development test as given throughout the state. [1990 c 33 § 182; 1977 ex.s. c 341 § 3. Formerly RCW 28A.97.030.]

Severability—1977 ex.s. c 341: See note following RCW 28A.205.010.

28A.205.040 Reimbursement procedure—Schedule of fees, revision—Priority for payment—Review of clinic's records. From funds appropriated for that purpose, the superintendent of public instruction shall pay to a certified clinic on a monthly basis for each student enrolled in compliance with RCW 28A.205.020, fees in accordance with the following conditions:

(1) (a) The fee for the initial diagnostic procedure shall be not more than fifty dollars per student, and hourly fees for each student shall be sixteen dollars if the class size is no greater than one, ten dollars if the class size is at least two and no greater than five, and five dollars if the class size is at least six: PROVIDED, That revisions in such fees proposed by an education clinic shall become effective after thirty days notice unless the superintendent finds such a revision is unreasonable in which case the revision shall not take effect: PROVIDED FURTHER, That an education clinic may, within fifteen days after such a finding by the superintendent, file notification of appeal with the state board of education which shall, no later than its second regularly scheduled meeting following notification of such appeal, either grant or deny the proposed revision: AND PROVIDED FURTHER, That the administration of any general education development test shall not be a part of such initial diagnostic procedure.

(b) Reimbursements shall not be made for students who are absent.

(c) No clinic shall make any charge to any student, or the student's parent, guardian or custodian, for whom a fee is being received under the provisions of this section.

(2) Payments shall be made from available funds first to those clinic(s) which have in the judgment of the superintendent demonstrated superior performance based upon consideration of students' educational gains taking into account such students' backgrounds, and upon consideration of cost effectiveness. In considering the cost effectiveness of nonprofit clinics the superintendent shall take into account not only payments made under this section but also factors such as tax exemptions, direct and indirect subsidies or any

other cost to taxpayers at any level of government which result from such nonprofit status.

(3) To be eligible for such payment, every such clinic, without prior notice, shall permit a review of its accounting records by personnel of the state auditor during normal business hours.

(4) If total funds for this purpose approach depletion, the superintendent shall notify the clinics of the date after which further funds for reimbursement of the clinics' services will be exhausted. [1990 c 33 § 183; 1979 ex.s. c 174 § 2; 1977 ex.s. c 341 § 4. Formerly RCW 28A.97.040.]

Severability—1979 ex.s. c 174: See note following RCW 28A.205.020.

Severability—1977 ex.s. c 341: See note following RCW 28A.205.010.

28A.205.050 Rules and regulations—Legislative review of criteria utilized for reimbursement purposes. In accordance with chapter 34.05 RCW, the administrative procedure act, the state board of education with respect to the matter of certification, and the superintendent of public instruction with respect to all other matters, shall have the power and duty to make the necessary rules and regulations to carry out the purpose and intent of this chapter.

Criteria as promulgated by the state board of education or superintendent of public instruction for determining if any educational clinic is providing adequate instruction in basic academic skills or demonstrating superior performance in student educational gains for funding under RCW 28A.205.040 shall be subject to review by four members of the legislature, one from each caucus of each house, including the chairs of the respective education committees. [1990 c 33 § 184; 1977 ex.s. c 341 § 5. Formerly RCW 28A.97.050.]

Severability—1977 ex.s. c 341: See note following RCW 28A.205.010.

28A.205.060 Report to legislature by superintendent of public instruction—Contents—Update. The superintendent of public instruction shall prepare a report on educational clinics that:

(1) Identifies a funding level that is adequate to fund the enrollment served by educational clinics during the previous fiscal year;

(2) Identifies locales in the state which are served by educational clinics but where demand for educational clinic services will support additional service, and recommends the funding level necessary to serve such demand;

(3) Identifies locales in the state which are not served by educational clinics but where demand will support operation of clinics, and recommends the funding level necessary to serve such demand; and

(4) Identifies locales in the state that are either underserved or not served by existing public school programs for drop-outs or for drop-out prevention, but where demand will support such services and recommends the funding level necessary to serve such demand.

The report shall be submitted to the legislature by January 1 in the year following June 27, 1985, and updates of the report shall be submitted with each biennial budget request until such time as funding levels reach the levels

recommended in subsections (2) and (3) of this section. [1985 c 434 § 2. Formerly RCW 28A.97.110.]

Contingency—Effective date—1985 c 434 § 2: "If specific funding for the purposes of section 2 of this act, referencing this act by bill number, is not provided by the legislature by July 1, 1987, section 2 of this act shall be null and void. Section 2 of this act shall be of no effect until such specific funding is provided. If such funding is so provided, section 2 of this act shall take effect when the legislation providing the funding takes effect." [1985 c 434 § 6.]

Reviser's note: (1) 1985 ex.s. c 6 § 501 provides specific funding for section 2 of this act [RCW 28A.97.110].

(2) 1985 ex.s. c 6 took effect June 27, 1985.

Intent—1985 c 434: "It is the intent of this act to provide for an equitable distribution of funds appropriated for educational clinics, to stabilize existing programs, and to provide a system for orderly expansion or retrenchment in the event of future increases or reductions in program appropriations." [1985 c 434 § 1.]

28A.205.070 Allocation of funds—Criteria—Duties of superintendent. In allocating funds appropriated for educational clinics, the superintendent of public instruction shall:

(1) Place priority upon stability and adequacy of funding for educational clinics that have demonstrated superior performance as defined in RCW 28A.205.040(2).

(2) Initiate and maintain a competitive review process to select new or expanded clinic programs in unserved or underserved areas. The criteria for review of competitive proposals for new or expanded education clinic services shall include but not be limited to:

(a) The proposing organization shall have obtained certification from the state board of education as provided in RCW 28A.205.010;

(b) The cost-effectiveness of the proposal as judged by the criteria established in *RCW 28A.97.100(1) and (2); and

(c) The availability of committed nonstate funds to support, enrich, or otherwise enhance the basic program.

(3) In selecting areas for new or expanded educational clinics programs, the superintendent of public instruction shall consider factors including but not limited to:

(a) The proportion and total number of dropouts unserved by existing clinics programs, if any;

(b) The availability within the geographic area of programs other than educational clinics which address the basic educational needs of dropouts; and

(c) Waiting lists or other evidence of demand for expanded educational clinic programs.

(4) In the event of any curtailment of services resulting from lowered legislative appropriations, the superintendent of public instruction shall issue pro rata reductions to all clinics funded at the time of the lowered appropriation. Individual clinics may be exempted from such pro rata reductions if the superintendent finds that such reductions would impair the clinic's ability to operate at minimally acceptable levels of service. In the event of such exceptions, the superintendent shall determine an appropriate rate for reduction to permit the clinic to continue operation.

(5) In the event that an additional clinic or clinics become certified and apply to the superintendent for funds to be allocated from a legislative appropriation which does not increase from the immediately preceding biennium, or does not increase sufficiently to allow such additional clinic or clinics to operate at minimally acceptable levels of service

without reducing the funds available to previously funded clinics, the superintendent shall not provide funding for such additional clinic or clinics from such appropriation. [1990 c 33 § 185; 1985 c 434 § 3. Formerly RCW 28A.97.120.]

*Reviser's note: RCW 28A.97.100 was repealed by 1986 c 158 § 25.

Intent—1985 c 434: See note following RCW 28A.205.060.

28A.205.080 Legislative findings—Distribution of funds—Cooperation with school districts. The legislature recognizes that educational clinics provide a necessary and effective service for students who have dropped out of common school programs. Educational clinics have demonstrated success in preparing such youth for productive roles in society and are an integral part of the state's program to address the needs of students who have dropped out of school. The superintendent of public instruction shall distribute funds, consistent with legislative appropriations, allocated specifically for educational clinics in accord with chapter 28A.205 RCW. The legislature encourages school districts to explore cooperation with educational clinics. [1990 c 33 § 186; 1987 c 518 § 220. Formerly RCW 28A.97.125.]

Intent—Severability—1987 c 518: See notes following RCW 28A.215.150.

28A.205.090 Inclusion of educational clinics program in biennial budget request—Quarterly plans—Funds—Payment. The superintendent shall include the educational clinics program in the biennial budget request. Contracts between the superintendent of public instruction and the educational clinics shall include quarterly plans which provide for relatively stable student enrollment but take into consideration anticipated seasonal variations in enrollment in the individual clinics. Funds which are not expended by a clinic during the quarter for which they were planned may be carried forward to subsequent quarters of the fiscal year. The superintendent shall make payments to the clinics on a monthly basis pursuant to RCW 28A.205.040. [1990 c 33 § 187; 1985 c 434 § 4. Formerly RCW 28A.97.130.]

Intent—1985 c 434: See note following RCW 28A.205.060.

Chapter 28A.210

HEALTH—SCREENING AND REQUIREMENTS

Sections

28A.210.005	Transfer of duties to the department of health.
28A.210.010	Contagious diseases, limiting contact—Rules and regulations.
28A.210.020	Visual and auditory screening of pupils—Rules and regulations.
28A.210.030	Visual and auditory screening of pupils—Record of screening—Forwarding of records, recommendations and data.
28A.210.040	Visual and auditory screening of pupils—Rules and regulations, forms used in screenings, distribution.
28A.210.050	Sight-saving equipment.
28A.210.060	Immunization program—Purpose.
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28A.210.080	Immunization program—Attendance of child conditioned upon presentation of alternative proofs.
28A.210.090	Immunization program—Exemptions from on presentation of alternative certifications.

28A.210.100	Immunization program—Source of immunizations—Written records.
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28A.210.120	Immunization program—Prohibiting child's presence, when—Notice to parent, guardian or adult in loco parentis, contents.
28A.210.130	Immunization program—Superintendent of public instruction to provide information.
28A.210.140	Immunization program—State board of health rules, contents.
28A.210.150	Immunization program—Superintendent of public instruction by rule to adopt procedures for verifying records.
28A.210.160	Immunization program—State board of education rules, contents.
28A.210.170	Immunization program—Department of social and health services' rules, contents.
28A.210.180	Screening program for scoliosis—Purpose.
28A.210.190	Screening program for scoliosis—Definitions.
28A.210.200	Screening program for scoliosis—Examination of children—Personnel making examinations, training for.
28A.210.210	Screening program for scoliosis—Records—Parents or guardians notification, contents.
28A.210.220	Screening program for scoliosis—Distribution of rules, records and forms.
28A.210.240	Screening program for scoliosis—Pupils exempt, when.
28A.210.250	Screening program for scoliosis—Sanctions against school officials failing to comply.
28A.210.260	Public and private schools—Administration of oral medication by—Conditions.
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28A.210.280	Catheterization of public and private school students.
28A.210.290	Catheterization of public and private school students—Immunity from liability.
28A.210.300	School physician or school nurse may be employed.
28A.210.310	Prohibition on use of tobacco products on school property.

State board of health: Chapter 43.20 RCW.

28A.210.005 Transfer of duties to the department of health. The powers and duties of the department of social and health services and the secretary of social and health services under this chapter shall be performed by the department of health and the secretary of health. [1989 1st ex.s. c 9 § 239. Formerly RCW 28A.31.005.]

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

28A.210.010 Contagious diseases, limiting contact—Rules and regulations. The state board of health, after consultation with the superintendent of public instruction, shall adopt reasonable rules and regulations regarding the presence of persons on or about any school premises who have, or who have been exposed to, contagious diseases deemed by the state board of health as dangerous to the public health. Such rules and regulations shall specify reasonable and precautionary procedures as to such presence and/or readmission of such persons and may include the requirement for a certificate from a licensed physician that there is no danger of contagion. The superintendent of public instruction shall print and distribute the rules and regulations of the state board of health above provided to appropriate school officials and personnel. [1971 c 32 § 1;

1969 ex.s. c 223 § 28A.31.010. Prior: 1909 c 97 p 262 § 5; RRS § 4689; prior: 1897 c 118 § 68; 1890 p 372 § 47. Formerly RCW 28A.31.010, 28.31.010.]

28A.210.020 Visual and auditory screening of pupils—Rules and regulations. Every board of school directors shall have the power, and it shall be its duty to provide for and require screening for the visual and auditory acuity of all children attending schools in their districts to ascertain which if any of such children have defects sufficient to retard them in their studies. Auditory and visual screening shall be made in accordance with procedures and standards adopted by rule or regulation of the state board of health. Prior to the adoption or revision of such rules or regulations the state board of health shall seek the recommendations of the superintendent of public instruction regarding the administration of visual and auditory screening and the qualifications of persons competent to administer such screening. [1971 c 32 § 2; 1969 ex.s. c 223 § 28A.31.030. Prior: 1941 c 202 § 1; Rem. Supp. 1941 § 4689-1. Formerly RCW 28A.31.030, 28.31.030.]

28A.210.030 Visual and auditory screening of pupils—Record of screening—Forwarding of records, recommendations and data. The person or persons completing the screening prescribed in RCW 28A.210.020 shall promptly prepare a record of the screening of each child found to have, or suspected of having, reduced visual and/or auditory acuity in need of attention, including the special education services provided by RCW 28A.155.010 through 28A.155.100, and send copies of such records and recommendations to the parents or guardians of such children and shall deliver the original records to the appropriate school official who shall preserve such records and forward to the superintendent of public instruction and the secretary of health visual and auditory data as requested by such officials. [1991 c 3 § 289; 1990 c 33 § 188; 1971 c 32 § 3; 1969 ex.s. c 223 § 28A.31.040. Prior: 1941 c 202 § 2; Rem. Supp. 1941 § 4689-2. Formerly RCW 28A.31.040, 28.31.040.]

28A.210.040 Visual and auditory screening of pupils—Rules and regulations, forms used in screenings, distribution. The superintendent of public instruction shall print and distribute to appropriate school officials the rules and regulations adopted by the state board of health pursuant to RCW 28A.210.020 and the recommended records and forms to be used in making and reporting such screenings. [1990 c 33 § 189; 1973 c 46 § 1. Prior: 1971 c 48 § 12; 1971 c 32 § 4; 1969 ex.s. c 223 § 28A.31.050; prior: 1941 c 202 § 3; RRS § 4689-3. Formerly RCW 28A.31.050, 28.31.050.]

Severability—1973 c 46: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 c 46 § 5.]

Severability—1971 c 48: See note following RCW 28A.305.040.

28A.210.050 Sight-saving equipment. In order to enable children in public schools who have defective vision to enjoy comparable educational opportunities with children

of normal sight, the superintendent of public instruction shall provide for the benefit of such children sight-saving equipment as may be deemed necessary to accomplish such purpose. Any equipment so purchased shall be the property of the superintendent of public instruction and shall be loaned to public schools for the use of children with defective vision where the number of such children does not warrant the establishment of a sight-saving class or as otherwise required. Such sight-saving equipment shall be made available upon the recommendation of an eye physician that such equipment is necessary to enable a child to enjoy educational opportunities equal to those of children of normal sight. [1969 ex.s. c 223 § 28A.31.060. Prior: 1941 c 251 § 1; Rem. Supp. 1941 § 4689-4. Formerly RCW 28A.31.060, 28.31.060.]

28A.210.060 Immunization program—Purpose. In enacting RCW 28A.210.060 through 28A.210.170, it is the judgment of the legislature that it is necessary to protect the health of the public and individuals by providing a means for the eventual achievement of full immunization of school-age children against certain vaccine-preventable diseases. [1990 c 33 § 190; 1984 c 40 § 3; 1979 ex.s. c 118 § 1. Formerly RCW 28A.31.100.]

Severability—1984 c 40: See note following RCW 28A.195.050.

Effective date—1979 ex.s. c 118: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on September 1, 1979." [1979 ex.s. c 118 § 13.]

Severability—1979 ex.s. c 118: "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 118 § 16.]

28A.210.070 Immunization program—Definitions. As used in RCW 28A.210.060 through 28A.210.170:

(1) "Chief administrator" shall mean the person with the authority and responsibility for the immediate supervision of the operation of a school or day care center as defined in this section or, in the alternative, such other person as may hereafter be designated in writing for the purposes of RCW 28A.210.060 through 28A.210.170 by the statutory or corporate board of directors of the school district, school, or day care center or, if none, such other persons or person with the authority and responsibility for the general supervision of the operation of the school district, school or day care center.

(2) "Full immunization" shall mean immunization against certain vaccine-preventable diseases in accordance with schedules and with immunizing agents approved by the state board of health.

(3) "Local health department" shall mean the city, town, county, district or combined city-county health department, board of health, or health officer which provides public health services.

(4) "School" shall mean and include each building, facility, and location at or within which any or all portions of a preschool, kindergarten and grades one through twelve program of education and related activities are conducted for two or more children by or in behalf of any public school district and by or in behalf of any private school or private institution subject to approval by the state board of education

pursuant to RCW 28A.305.130(6), 28A.195.010 through 28A.195.050, and 28A.410.120.

(5) "Day care center" shall mean an agency which regularly provides care for a group of thirteen or more children for periods of less than twenty-four hours and is licensed pursuant to chapter 74.15 RCW.

(6) "Child" shall mean any person, regardless of age, in attendance at a public or private school or a licensed day care center. [1990 c 33 § 191; 1985 c 49 § 2; 1984 c 40 § 4; 1979 ex.s. c 118 § 2. Formerly RCW 28A.31.102.]

Severability—1984 c 40: See note following RCW 28A.195.050.

Effective date—Severability—1979 ex.s. c 118: See notes following RCW 28A.210.060.

28A.210.080 Immunization program—Attendance of child conditioned upon presentation of alternative proofs. The attendance of every child at every public and private school in the state and licensed day care center shall be conditioned upon the presentation before or on each child's first day of attendance at a particular school or center, of proof of either (1) full immunization, (2) the initiation of and compliance with a schedule of immunization, as required by rules of the state board of health, or (3) a certificate of exemption as provided for in RCW 28A.210.090. The attendance at the school or the day care center during any subsequent school year of a child who has initiated a schedule of immunization shall be conditioned upon the presentation of proof of compliance with the schedule on the child's first day of attendance during the subsequent school year. Once proof of full immunization or proof of completion of an approved schedule has been presented, no further proof shall be required as a condition to attendance at the particular school or center. [1990 c 33 § 192; 1985 c 49 § 1; 1979 ex.s. c 118 § 3. Formerly RCW 28A.31.104.]

Effective date—Severability—1979 ex.s. c 118: See notes following RCW 28A.210.060.

28A.210.090 Immunization program—Exemptions from on presentation of alternative certifications. Any child shall be exempt in whole or in part from the immunization measures required by RCW 28A.210.060 through 28A.210.170 upon the presentation of any one or more of the following, on a form prescribed by the department of health:

(1) A written certification signed by any physician licensed to practice medicine pursuant to chapter 18.71 or 18.57 RCW that a particular vaccine required by rule of the state board of health is, in his or her judgment, not advisable for the child: PROVIDED, That when it is determined that this particular vaccine is no longer contraindicated, the child will be required to have the vaccine;

(2) A written certification signed by any parent or legal guardian of the child or any adult in loco parentis to the child that the religious beliefs of the signator are contrary to the required immunization measures; and

(3) A written certification signed by any parent or legal guardian of the child or any adult in loco parentis to the child that the signator has either a philosophical or personal objection to the immunization of the child. [1991 c 3 § 290;

1990 c 33 § 193; 1984 c 40 § 5; 1979 ex.s. c 118 § 4. Formerly RCW 28A.31.106.]

Severability—1984 c 40: See note following RCW 28A.195.050.

Effective date—Severability—1979 ex.s. c 118: See notes following RCW 28A.210.060.

28A.210.100 Immunization program—Source of immunizations—Written records. The immunizations required by RCW 28A.210.060 through 28A.210.170 may be obtained from any private or public source desired: PROVIDED, That the immunization is administered and records are made in accordance with the regulations of the state board of health. Any person or organization administering immunizations shall furnish each person immunized, or his or her parent or legal guardian, or any adult in loco parentis to the child, with a written record of immunization given in a form prescribed by the state board of health. [1990 c 33 § 194; 1984 c 40 § 7; 1979 ex.s. c 118 § 6. Formerly RCW 28A.31.110.]

Severability—1984 c 40: See note following RCW 28A.195.050.

Effective date—Severability—1979 ex.s. c 118: See notes following RCW 28A.210.060.

28A.210.110 Immunization program—Administrator's duties upon receipt of proof of immunization or certification of exemption. A child's proof of immunization or certification of exemption shall be presented to the chief administrator of the public or private school or day care center or to his or her designee for that purpose. The chief administrator shall:

(1) Retain such records pertaining to each child at the school or day care center for at least the period the child is enrolled in the school or attends such center;

(2) Retain a record at the school or day care center of the name, address, and date of exclusion of each child excluded from school or the center pursuant to RCW 28A.210.120 for not less than three years following the date of a child's exclusion;

(3) File a written annual report with the department of health on the immunization status of students or children attending the day care center at a time and on forms prescribed by the department of health; and

(4) Allow agents of state and local health departments access to the records retained in accordance with this section during business hours for the purposes of inspection and copying. [1991 c 3 § 291; 1990 c 33 § 195; 1979 ex.s. c 118 § 7. Formerly RCW 28A.31.112.]

Effective date—Severability—1979 ex.s. c 118: See notes following RCW 28A.210.060.

28A.210.120 Immunization program—Prohibiting child's presence, when—Notice to parent, guardian or adult in loco parentis, contents. It shall be the duty of the chief administrator of every public and private school and day care center to prohibit the further presence at the school or day care center for any and all purposes of each child for whom proof of immunization, certification of exemption, or proof of compliance with an approved schedule of immunization has not been provided in accordance with RCW 28A.210.080 and to continue to prohibit the child's presence until such proof of immunization, certification of exemption,

or approved schedule has been provided. The exclusion of a child from a school shall be accomplished in accordance with rules of the state board of education. The exclusion of a child from a day care center shall be accomplished in accordance with rules of the department of social and health services. Prior to the exclusion of a child, each school or day care center shall provide written notice to the parent(s) or legal guardian(s) of each child or to the adult(s) in loco parentis to each child, who is not in compliance with the requirements of RCW 28A.210.080. The notice shall fully inform such person(s) of the following: (1) The requirements established by and pursuant to RCW 28A.210.060 through 28A.210.170; (2) the fact that the child will be prohibited from further attendance at the school unless RCW 28A.210.080 is complied with; (3) such procedural due process rights as are hereafter established pursuant to RCW 28A.210.160 and/or 28A.210.170, as appropriate; and (4) the immunization services that are available from or through the local health department and other public agencies. [1990 c 33 § 196; 1985 c 49 § 3; 1984 c 40 § 8; 1979 ex.s. c 118 § 8. Formerly RCW 28A.31.114.]

Severability—1984 c 40: See note following RCW 28A.195.050.

Effective date—Severability—1979 ex.s. c 118: See notes following RCW 28A.210.060.

28A.210.130 Immunization program—Superintendent of public instruction to provide information. The superintendent of public instruction shall provide for information about the immunization program and requirements under RCW 28A.210.060 through 28A.210.170 to be widely available throughout the state in order to promote full use of the program. [1990 c 33 § 197; 1985 c 49 § 4. Formerly RCW 28A.31.115.]

28A.210.140 Immunization program—State board of health rules, contents. The state board of health shall adopt and is hereby empowered to adopt rules pursuant to chapter 34.05 RCW which establish the procedural and substantive requirements for full immunization and the form and substance of the proof thereof, to be required pursuant to RCW 28A.210.060 through 28A.210.170. [1990 c 33 § 198; 1984 c 40 § 9; 1979 ex.s. c 118 § 9. Formerly RCW 28A.31.116.]

Severability—1984 c 40: See note following RCW 28A.195.050.

Effective date—Severability—1979 ex.s. c 118: See notes following RCW 28A.210.060.

28A.210.150 Immunization program—Superintendent of public instruction by rule to adopt procedures for verifying records. The superintendent of public instruction by rule shall provide procedures for schools to quickly verify the immunization records of students transferring from one school to another before the immunization records are received. [1985 c 49 § 5. Formerly RCW 28A.31.117.]

28A.210.160 Immunization program—State board of education rules, contents. The state board of education shall and is hereby empowered to adopt rules pursuant to chapter 34.05 RCW which establish the procedural and substantive due process requirements governing the exclusion

of children from public and private schools pursuant to RCW 28A.210.120. [1990 c 33 § 199; 1979 ex.s. c 118 § 10. Formerly RCW 28A.31.118.]

Effective date—Severability—1979 ex.s. c 118: See notes following RCW 28A.210.060.

28A.210.170 Immunization program—Department of social and health services' rules, contents. The department of social and health services shall and is hereby empowered to adopt rules pursuant to chapter 34.05 RCW which establish the procedural and substantive due process requirements governing the exclusion of children from day care centers pursuant to RCW 28A.210.120. [1990 c 33 § 200; 1979 ex.s. c 118 § 11. Formerly RCW 28A.31.120.]

Effective date—Severability—1979 ex.s. c 118: See notes following RCW 28A.210.060.

28A.210.180 Screening program for scoliosis—Purpose. The legislature recognizes that the condition known as scoliosis, a lateral curvature of the spine commonly appearing in adolescents, can develop into a permanent, crippling disability if left untreated. Early diagnosis and referral can often result in the successful treatment of this condition and greatly reduce the need for major surgery. Therefore, the purpose of RCW 28A.210.180 through 28A.210.250 is to recognize that a school screening program is an invaluable tool for detecting the number of adolescents with scoliosis. It is the intent of the legislature to insure that the superintendent of public instruction provide and require screening of children for the condition known as scoliosis, to ascertain which, if any, of these children have defects requiring corrective treatment. [1991 c 86 § 1; 1990 c 33 § 201; 1985 c 216 § 1; 1979 c 47 § 1. Formerly RCW 28A.31.130.]

Severability—1979 c 47: "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 c 47 § 8.]

28A.210.190 Screening program for scoliosis—Definitions. As used in RCW 28A.210.180 through 28A.210.250, the following terms have the meanings indicated.

(1) "Superintendent" means the superintendent of public instruction of public schools in the state, or the superintendent's designee.

(2) "Pupil" means a student enrolled in the public school system in the state.

(3) "Scoliosis" includes idiopathic scoliosis and kyphosis.

(4) "Screening" means an examination to be performed for the purpose of detecting the condition known as scoliosis.

(5) "Public schools" means the common schools referred to in Article IX of the state Constitution and those schools and institutions of learning having a curriculum below the college or university level as now or may be established by law and maintained at public expense. [1991 c 86 § 2; 1990 c 33 § 202; 1985 c 216 § 2; 1979 c 47 § 2. Formerly RCW 28A.31.132.]

Severability—1979 c 47: See note following RCW 28A.210.180.

28A.210.200 Screening program for scoliosis—Examination of children—Personnel making examinations, training for. The superintendent shall provide for and require the examination of children attending public schools at least three times between grades four and eleven in accordance with procedures and standards adopted by rule of the state board of health in cooperation with the superintendent of public instruction and the department of health. The examination shall be made by a school physician, school nurse, qualified licensed health practitioner, or physical education instructor or by other school personnel. Proper training of the personnel in the screening process for scoliosis shall be provided by the superintendent. [1991 c 86 § 3; 1990 c 33 § 203; 1985 c 216 § 3; 1979 c 47 § 3. Formerly RCW 28A.31.134.]

Severability—1979 c 47: See note following RCW 28A.210.180.

28A.210.210 Screening program for scoliosis—Records—Parents or guardians notification, contents. Every person performing the screening under RCW 28A.210.200 shall promptly prepare a record of the screening of each child found to have or suspected of having scoliosis and shall send copies of the records to the parents or guardians of the children. The notification shall include an explanation of scoliosis, the significance of treating it at an early stage, and the services generally available from a qualified licensed health practitioner for the treatment after diagnosis. [1990 c 33 § 204; 1985 c 216 § 4; 1979 c 47 § 4. Formerly RCW 28A.31.136.]

Severability—1979 c 47: See note following RCW 28A.210.180.

28A.210.220 Screening program for scoliosis—Distribution of rules, records and forms. The superintendent shall print and distribute to appropriate school officials the rules adopted by the state board of health in cooperation with the superintendent of public instruction under RCW 28A.210.200 and the recommended records and forms to be used in making and reporting the screenings. [1990 c 33 § 205; 1979 c 47 § 5. Formerly RCW 28A.31.138.]

Severability—1979 c 47: See note following RCW 28A.210.180.

28A.210.240 Screening program for scoliosis—Pupils exempt, when. Any pupil shall be exempt from the examination upon written request of his or her parent or guardian if the parent or guardian certifies that:

(1) The screening conflicts with the philosophical or religious beliefs; or

(2) The student is presently under the care of a health care provider for spinal curvature or a related medical condition. [1985 c 216 § 5; 1979 c 47 § 6. Formerly RCW 28A.31.140.]

Severability—1979 c 47: See note following RCW 28A.210.180.

28A.210.250 Screening program for scoliosis—Sanctions against school officials failing to comply. The superintendent may establish appropriate sanctions to be applied to any school officials of the state failing to comply with RCW 28A.210.200 through 28A.210.240 which sanctions may include withholding of any portion of state aid to the district until such time as compliance is assured.

[1990 c 33 § 207; 1979 c 47 § 7. Formerly RCW 28A.31.142.]

Severability—1979 c 47: See note following RCW 28A.210.180.

28A.210.260 Public and private schools—Administration of oral medication by—Conditions. Public school districts and private schools which conduct any of grades kindergarten through the twelfth grade may provide for the administration of oral medication of any nature to students who are in the custody of the school district or school at the time of administration, but are not required to do so by this section, subject to the following conditions:

(1) The board of directors of the public school district or the governing board of the private school or, if none, the chief administrator of the private school shall adopt policies which address the designation of employees who may administer oral medications to students, the acquisition of parent requests and instructions, and the acquisition of dentist and physician requests and instructions regarding students who require medication for more than fifteen consecutive school days, the identification of the medication to be administered, the means of safekeeping medications with special attention given to the safeguarding of legend drugs as defined in chapter 69.41 RCW, and the means of maintaining a record of the administration of such medication;

(2) The board of directors shall seek advice from one or more licensed physicians or nurses in the course of developing the foregoing policies;

(3) The public school district or private school is in receipt of a written, current and unexpired request from a parent, or a legal guardian, or other person having legal control over the student to administer the medication to the student;

(4) The public school district or the private school is in receipt of (a) a written, current and unexpired request from a licensed physician or dentist for administration of the medication, as there exists a valid health reason which makes administration of such medication advisable during the hours when school is in session or the hours in which the student is under the supervision of school officials, and (b) written, current and unexpired instructions from such physician or dentist regarding the administration of prescribed medication to students who require medication for more than fifteen consecutive work days;

(5) The medication is administered by an employee designated by or pursuant to the policies adopted pursuant to subsection (1) of this section and in substantial compliance with the prescription of a physician or dentist or the written instructions provided pursuant to subsection (4) of this section;

(6) The medication is first examined by the employee administering the same to determine in his or her judgment that it appears to be in the original container and to be properly labeled; and

(7) The board of directors shall designate a professional person licensed pursuant to chapter 18.71 or 18.88 RCW to train and supervise the designated school district personnel in proper medication procedures. [1982 c 195 § 1. Formerly RCW 28A.31.150.]

Severability—1982 c 195: "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." [1982 c 195 § 4.]

28A.210.270 Public and private schools—Administration of oral medication by—Immunity from liability—Discontinuance, procedure. (1) In the event a school employee administers oral medication to a student pursuant to RCW 28A.210.260 in substantial compliance with the prescription of the student's physician or dentist or the written instructions provided pursuant to RCW 28A.210.260(4), and the other conditions set forth in RCW 28A.210.260 have been substantially complied with, then the employee, the employee's school district or school of employment, and the members of the governing board and chief administrator thereof shall not be liable in any criminal action or for civil damages in their individual or marital or governmental or corporate or other capacities as a result of the administration of the medication.

(2) The administration of oral medication to any student pursuant to RCW 28A.210.260 may be discontinued by a public school district or private school and the school district or school, its employees, its chief administrator, and members of its governing board shall not be liable in any criminal action or for civil damages in their governmental or corporate or individual or marital or other capacities as a result of the discontinuance of such administration: PROVIDED, That the chief administrator of the public school district or private school, or his or her designee, has first provided actual notice orally or in writing in advance of the date of discontinuance to a parent or legal guardian of the student or other person having legal control over the student. [1990 c 33 § 208; 1982 c 195 § 2. Formerly RCW 28A.31.155.]

Severability—1982 c 195: See note following RCW 28A.210.260.

28A.210.280 Catheterization of public and private school students. (1) Public school districts and private schools that offer classes for any of grades kindergarten through twelve may provide for clean, intermittent bladder catheterization of students, or assisted self-catheterization of students pursuant to RCW 18.88.295: PROVIDED, That the catheterization is provided for in substantial compliance with:

(a) Rules adopted by the state board of nursing and the instructions of a registered nurse issued under such rules; and

(b) Written policies of the school district or private school which shall be adopted in order to implement this section and shall be developed in accordance with such requirements of chapters 41.56 and 41.59 RCW as may be applicable.

(2) This section does not require school districts to provide intermittent bladder catheterization of students. [1988 c 48 § 2. Formerly RCW 28A.31.160.]

28A.210.290 Catheterization of public and private school students—Immunity from liability. (1) In the event a school employee provides for the catheterization of a student pursuant to RCW 18.88.295 and 28A.210.280 in substantial compliance with (a) rules adopted by the state

board of nursing and the instructions of a registered nurse issued under such rules, and (b) written policies of the school district or private school, then the employee, the employee's school district or school of employment, and the members of the governing board and chief administrator thereof shall not be liable in any criminal action or for civil damages in their individual, marital, governmental, corporate, or other capacity as a result of providing for the catheterization.

(2) Providing for the catheterization of any student pursuant to RCW 18.88.295 and 28A.210.280 may be discontinued by a public school district or private school and the school district or school, its employees, its chief administrator, and members of its governing board shall not be liable in any criminal action or for civil damages in their individual, marital, governmental, corporate, or other capacity as a result of the discontinuance: PROVIDED, That the chief administrator of the public school district or private school, or his or her designee, has first provided actual notice orally or in writing in advance of the date of discontinuance to a parent or legal guardian of the student or other person having legal control over the student: PROVIDED FURTHER, That the public school district otherwise provides for the catheterization of the student to the extent required by federal or state law. [1990 c 33 § 209; 1988 c 48 § 3. Formerly RCW 28A.31.165.]

28A.210.300 School physician or school nurse may be employed. The board of directors of any school district of the second class may employ a regularly licensed physician or a licensed public health nurse for the purpose of protecting the health of the children in said district. [1975 c 43 § 20; 1969 ex.s. c 223 § 28A.60.320. Prior: 1937 c 60 § 1; RRS § 4776-4. Formerly RCW 28A.60.320, 28.31.080.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.315.230.

28A.210.310 Prohibition on use of tobacco products on school property. To protect children in the public schools of this state from exposure to the addictive substance of nicotine, each school district board of directors shall adopt a written policy mandating a prohibition on the use of all tobacco products on public school property. A total ban on the use of all tobacco products shall be enforced by September 1, 1991. The policy may allow for exemptions from this prohibition with regard to alternative educational programs. [1989 c 233 § 6. Formerly RCW 28A.31.170.]

Chapter 28A.215

EARLY CHILDHOOD, PRESCHOOLS, AND BEFORE-AND-AFTER SCHOOL CARE

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NURSERY SCHOOLS, PRESCHOOLS, AND BEFORE-AND-AFTER SCHOOL CARE

28A.215.010 Authority of school boards. The board of directors of any school district shall have the power to establish and maintain nursery schools and to provide before-and-after-school and vacation care in connection with the common schools of said district located at such points as the board shall deem most suitable for the convenience of the public, for the care and instruction of infants and children residing in said district. The board shall establish such courses, activities, rules, and regulations governing nursery schools and before-and-after-school care as it may deem best: PROVIDED, That these courses and activities shall meet the minimum standard for such nursery schools as established by the United States Department of Health, Education and Welfare, or its successor agency, and the state board of education. Except as otherwise provided by state or federal law, the board of directors may fix a reasonable charge for the care and instruction of children attending such schools. The board may, if necessary, supplement such funds as are received for the superintendent of public instruction or any agency of the federal government, by an appropriation from the general school fund of the district. [1969 ex.s. c 223 § 28A.34.010. Prior: 1945 c 247 § 1; 1943 c 220 § 1; Rem. Supp. 1945 § 5109-1. Formerly RCW 28A.34.010, 28.34.010.]

28A.215.020 Allocations of state or federal funds—Regulations by state board. Expenditures under federal funds and/or state appropriations made to carry out the purposes of RCW 28A.215.010 through 28A.215.050 and 28A.215.300 through 28A.215.330 shall be made by warrants issued by the state treasurer upon order of the superintendent of public instruction. The state board of education shall make necessary rules and regulations to carry out the purpose of RCW 28A.215.010. [1990 c 33 § 210; 1969

ex.s. c 223 § 28A.34.020. Prior: 1943 c 220 § 2; Rem. Supp. 1943 § 5109-2. Formerly RCW 28A.34.020, 28.34.020, 28.34.030.]

28A.215.030 Allocations pending receipt of federal funds. In the event the legislature appropriates any moneys to carry out the purposes of RCW 28A.215.010 through 28A.215.050 and 28A.215.300 through 28A.215.330, allocations therefrom may be made to school districts for the purpose of underwriting allocations made or requested from federal funds until such federal funds are available. Any school district may allocate a portion of its funds for the purpose of carrying out the provisions of RCW 28A.215.010 through 28A.215.050 and 28A.215.300 through 28A.215.330 pending the receipt of reimbursement from funds made available by acts of congress. [1990 c 33 § 211; 1969 ex.s. c 223 § 28A.34.040. Prior: 1943 c 220 § 3; Rem. Supp. 1943 § 5109-3. Formerly RCW 28A.34.040, 28.34.040.]

28A.215.040 Establishment and maintenance discretionary. Every board of directors shall have power to establish, equip and maintain nursery schools and/or provide before-and-after-school care for children of working parents, in cooperation with the federal government or any of its agencies, when in their judgment the best interests of their district will be subserved thereby. [1973 1st ex.s. c 154 § 45; 1969 ex.s. c 223 § 28A.34.050. Prior: 1943 c 220 § 5; Rem. Supp. 1943 § 5109-5. Formerly RCW 28A.34.050, 28.34.050.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

28A.215.050 Additional authority—Contracts with private and public entities—Charges—Transportation services. As a supplement to the authority otherwise granted by RCW 28A.215.010 through 28A.215.050 and 28A.215.300 through 28A.215.330 respecting the care or instruction, or both, of children in general, the board of directors of any school district may only utilize funds outside the state basic education appropriation and the state school transportation appropriation to:

(1) Contract with public and private entities to conduct all or any portion of the management and operation of a child care program at a school district site or elsewhere;

(2) Establish charges based upon costs incurred under this section and provide for the reduction or waiver of charges in individual cases based upon the financial ability of the parents or legal guardians of enrolled children to pay the charges, or upon their provision of other valuable consideration to the school district; and

(3) Transport children enrolled in a child care program to the program and to related sites using district-owned school buses and other motor vehicles, or by contracting for such transportation and related services: PROVIDED, That no child three years of age or younger shall be transported under the provisions of this section unless accompanied by a parent or guardian. [1990 c 33 § 212; 1987 c 487 § 1. Formerly RCW 28A.34.150.]

EARLY CHILDHOOD ASSISTANCE PROGRAM

28A.215.100 Intent. It is the intent of the legislature to establish a preschool state education and assistance program. This special assistance program is a voluntary enrichment program to help prepare some children to enter the common school system and shall be offered only as funds are available. This program is not a part of the basic program of education which must be fully funded by the legislature under Article IX, section 1 of the state Constitution. [1985 c 418 § 1. Formerly RCW 28A.34A.010.]

28A.215.110 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 28A.215.100 through 28A.215.200 and 28A.215.900 through 28A.215.908.

(1) "Advisory committee" means the advisory committee under RCW 28A.215.140.

(2) "At risk" means a child not eligible for kindergarten whose family circumstances would qualify that child for eligibility under the federal head start program.

(3) "Department" means the department of community development.

(4) "Eligible child" means an at-risk child as defined in this section who is not a participant in a federal or state program providing like educational services and may include children who are eligible under rules adopted by the department if the number of such children equals not more than ten percent of the total enrollment in the preschool program.

(5) "Approved preschool programs" means those state-supported education and special assistance programs which are recognized by the department of community development as meeting the minimum program rules adopted by the department to qualify under RCW 28A.215.100 through 28A.215.200 and 28A.215.900 through 28A.215.908 and are designated as eligible for funding by the department under RCW 28A.215.160 and 28A.215.180. [1990 c 33 § 213; 1988 c 174 § 2; 1985 c 418 § 2. Formerly RCW 28A.34A.020.]

Findings—1988 c 174: "The legislature finds that the early childhood education and assistance program provides for the educational, social, health, nutritional, and cultural development of children at risk of failure when they reach school age. The long-term benefits to society in the form of greater educational attainment, employment, and projected lifetime earnings as well as the savings to be realized, from lower crime rates, welfare support, and reduced teenage pregnancy, have been demonstrated through lifelong research of at-risk children and preschool programs.

The legislature further finds that existing federal head start programs and state-supported early childhood education programs provide services for less than one-third of the eligible children in Washington.

The legislature intends to encourage development of community partnerships for children at risk by authorizing a program of voluntary grants and contributions from business and community organizations to increase opportunities for children to participate in early childhood education." [1988 c 174 § 1.]

28A.215.120 Department of community development to administer program—Admission and funding. The department of community development shall administer a state-supported preschool education and assistance program to assist eligible children with educational, social, health, nutritional, and cultural development to enhance their opportunity for success in the common school system. Eligible children shall be admitted to approved preschool

programs to the extent that the legislature provides funds, and additional eligible children may be admitted to the extent that grants and contributions from community sources provide sufficient funds for a program equivalent to that supported by state funds. [1988 c 174 § 3; 1985 c 418 § 3. Formerly RCW 28A.34A.030.]

Findings—1988 c 174: See note following RCW 28A.215.110.

28A.215.130 Approved preschool programs—Entities eligible to conduct—Use of funds—Requirements for applicants. Approved preschool programs shall receive state-funded support through the department. School districts, and existing head start grantees in cooperation with school districts, are eligible to participate as providers of the state preschool program. School districts may contract with other governmental or nongovernmental nonsectarian organizations to conduct a portion of the state program. Funds appropriated for the state program shall be used to establish new or expanded preschool programs, and shall not be used to supplant federally supported head start programs. Funds obtained by providers through voluntary grants or contributions from individuals, agencies, corporations, or organizations may be used to expand or enhance preschool programs so long as program standards established by the department are maintained, but shall not be used to supplant federally supported head start programs or state supported preschool programs. Persons applying to conduct the preschool program shall identify targeted groups and the number of children to be served, program components, the qualifications of instructional and special staff, the source and amount of grants or contributions from sources other than state funds, facilities and equipment support, and transportation and personal care arrangements. [1988 c 174 § 4; 1985 c 418 § 4. Formerly RCW 28A.34A.040.]

Findings—1988 c 174: See note following RCW 28A.215.110.

28A.215.140 Advisory committee—Composition. The department shall establish an advisory committee composed of interested parents and representatives from the state board of education, the office of the superintendent of public instruction, the division of children and family services within the department of social and health services, early childhood education and development staff preparation programs, the head start programs, school districts, and such other community and business organizations as deemed necessary by the department to assist with the establishment of the preschool program and advise the department on matters regarding the on-going promotion and operation of the program. [1988 c 174 § 5; 1985 c 418 § 5. Formerly RCW 28A.34A.050.]

Findings—1988 c 174: See note following RCW 28A.215.110.

28A.215.150 Rules. The department shall adopt rules under chapter 34.05 RCW for the administration of the preschool program. Federal head start program criteria, including set aside provisions for the children of seasonal and migrant farmworkers and native American populations living either on or off reservation, to the extent practicable, shall be considered as guidelines for the state preschool early childhood assistance program.

The department in developing rules for the preschool program shall consult with the advisory committee, and shall consider such factors as coordination with existing head start and other preschool programs, the preparation necessary for instructors, qualifications of instructors, adequate space and equipment, and special transportation needs. The rules shall specifically require the preschool programs to provide for parental involvement at a level not less than that provided under the federal head start program criteria. [1988 c 174 § 6; 1987 c 518 § 101; 1985 c 418 § 6. Formerly RCW 28A.34A.060.]

Findings—1988 c 174: See note following RCW 28A.215.110.

Intent—1987 c 518: "The long-term social, community welfare, and economic interests of the state will be served by an investment in our children. Conclusive studies and experiences show that providing children with certain developmental experiences and effective parental guidance can greatly improve their performance in school as well as increase the likelihood of their success as adults. National studies have also confirmed that special attention to, and educational assistance for, children and their school environment is the most effective way in which to meet the state's social and economic goals.

The legislature intends to enhance the readiness to learn of certain children and students by: Providing for an expansion of the state early childhood education and assistance program for children from low-income families and establishing an adult literacy program for certain parents; assisting school districts to establish elementary counseling programs; instituting a program to address learning problems due to drug and alcohol use and abuse; and establishing a program directed at students who leave school before graduation.

The legislature intends further to establish programs that will allow for parental, business, and community involvement in assisting the school systems throughout the state to enhance the ability of children to learn." [1987 c 518 § 1.]

Severability—1987 c 518: "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." [1987 c 518 § 411.]

28A.215.160 Review of applications—Award of funds. The department shall review applications from public or private nonsectarian organizations for state funding of early childhood education and assistance programs and award funds on a competitive basis as determined by department rules. [1988 c 174 § 7; 1985 c 418 § 7. Formerly RCW 28A.34A.070.]

Findings—1988 c 174: See note following RCW 28A.215.110.

28A.215.170 Governor's report. The governor shall report to the legislature before each regular session of the legislature convening in an odd-numbered year, on the merits of continuing and expanding the preschool program or instituting other means of providing early childhood development assistance. The office of the superintendent of public instruction shall assist the governor in the preparation of the biennial report and shall be consulted on all issues addressed in said report.

If the governor recommends the continuation of a state-funded preschool program, then the governor's report shall include specific recommendations on at least the following issues:

- (1) The desired relationships of a state-funded preschool education and assistance program with the common school system;
- (2) The types of children and their needs that the program should serve;

(3) The appropriate level of state support for implementing a comprehensive preschool education and assistance program for all eligible children, including related programs to prepare instructors and provide facilities, equipment, and transportation;

(4) The state administrative structure necessary to implement the program; and

(5) The establishment of a system to examine and monitor the effectiveness of preschool educational and assistance services for disadvantaged children to measure, among other elements, if possible, how the children completing this program compare to the average level of performance of all state students in their grade level, and to those at-risk students who do not have access to this program. The evaluation system shall examine how the percentage of these children needing access to special education or remedial programs compares to the overall percentage of children needing such services and compares to the percentage of at-risk students who do not have access to this program needing such services. [1988 c 174 § 8; 1985 c 418 § 8. Formerly RCW 28A.34A.080.]

Findings—1988 c 174: See note following RCW 28A.215.110.

28A.215.180 State support—Priorities—Program funding levels. For the purposes of RCW 28A.215.100 through 28A.215.200 and 28A.215.900 through 28A.215.908, the department may award state support under RCW 28A.215.100 through 28A.215.160 to increase the numbers of eligible children assisted by the federal or state-supported preschool programs in this state by up to five thousand additional children. Priority shall be given to groups in those geographical areas which include a high percentage of families qualifying under the federal "at risk" criteria. The overall program funding level shall be based on an average grant per child consistent with state appropriations made for program costs: PROVIDED, That programs addressing special needs of selected groups or communities shall be recognized in the department's rules. [1990 c 33 § 214; 1987 c 518 § 102; 1985 c 418 § 9. Formerly RCW 28A.34A.090.]

Intent—Severability—1987 c 518: See notes following RCW 28A.215.150.

28A.215.190 Expenses of advisory committee—Reimbursement. The department from funds appropriated for the administration of the program under *this act shall reimburse the expenses of the advisory committee. [1985 c 418 § 10. Formerly RCW 28A.34A.100.]

***Reviser's note:** For codification of "this act" [1985 c 418], see Codification Tables, Volume 0.

28A.215.200 Authority to solicit gifts, grants, and support. The department may solicit gifts, grants, conveyances, bequests and devises for the use or benefit of the preschool state education and assistance program established by RCW 28A.215.100 through 28A.215.200 and 28A.215.900 through 28A.215.908. The department shall actively solicit support from business and industry and from the federal government for the preschool state education and assistance program and shall assist local programs in developing partnerships with the community for children-at-

risk. [1990 c 33 § 215; 1988 c 174 § 9; 1985 c 418 § 11. Formerly RCW 28A.34A.110.]

Findings—1988 c 174: See note following RCW 28A.215.110.

VOLUNTARY ACCREDITATION OF PRESCHOOLS

28A.215.300 Voluntary accreditation for preschools—Intent. The legislature intends to establish a process for public or nonpublic preschool programs to seek voluntarily accreditation, by the state board of education, of their child development and educational offerings. The purpose of the accreditation is to give parents and other consumers of preschool programs some standard to use to assess the quality of preschool programs. [1986 c 150 § 1. Formerly RCW 28A.34.100.]

28A.215.310 Definition of preschool. Unless the context clearly indicates otherwise, the definition used in this section shall apply throughout RCW 28A.215.010 through 28A.215.050 and 28A.215.300 through 28A.215.330.

"Preschool" means educational programs that emphasize readiness skills and that enroll children of preschool age on a regular basis for four hours per day or less. [1990 c 33 § 216; 1986 c 150 § 2. Formerly RCW 28A.34.110.]

28A.215.320 Standards for accreditation—Option to establish advisory committee. The state board of education shall establish standards and procedures for the accreditation of all public and nonpublic preschools. Such schools are hereby encouraged to apply for such accreditation. In developing standards, the state board of education shall use nationally developed standards if, in the judgment of the state board of education, such national standards adequately protect the children and parents who are the consumers of preschool education. If the state board of education establishes an advisory committee to assist in the development or selection of standards, at least one member of the advisory committee shall represent private preschools. [1986 c 150 § 3. Formerly RCW 28A.34.120.]

28A.215.330 Voluntary accreditation of preschools—Prohibited practices by public or nonpublic entities. No public or nonpublic entity may advertise that it has an accredited preschool unless its educational program has been accredited under RCW 28A.215.010 through 28A.215.050 and 28A.215.300 through 28A.215.330. Any person with a pecuniary interest in the operation of a preschool who intentionally and falsely advertises that such preschool is accredited by the state board of education shall be guilty of a misdemeanor, the fine for which shall be no more than one hundred dollars. Each day that the violation continues shall be considered a separate violation. [1990 c 33 § 217; 1986 c 150 § 4. Formerly RCW 28A.34.130.]

28A.215.900 Short title—1985 c 418. This act shall be known as the early childhood assistance act of 1985. [1985 c 418 § 13. Formerly RCW 28A.34A.904.]

28A.215.904 Contingency—Effective date—1985 c 418. If specific funding for the purposes of this act, refer-

encing this act by bill number, is not provided by the legislature by July 1, 1987, this act shall be null and void. This act shall be of no effect until such specific funding is provided. If such funding is so provided, this act shall take effect when the legislation providing the funding takes effect. [1985 c 418 § 12. Formerly RCW 28A.34A.900.]

Reviser's note: (1) 1986 c 312 § 211 provides specific funding for the purposes of this act.

(2) 1986 c 312 took effect April 4, 1986.

28A.215.906 Severability—1985 c 418. 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. [1985 c 418 § 14. Formerly RCW 28A.34A.906.]

28A.215.908 Severability—1988 c 174. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1988 c 174 § 11. Formerly RCW 28A.34A.908.]

Chapter 28A.220 TRAFFIC SAFETY

Sections

28A.220.010	Legislative declaration.
28A.220.020	Definitions.
28A.220.030	Administration of program—Powers and duties of school officials.
28A.220.040	Fiscal support—Reimbursement to school districts—Enrollment fees—Deposit.
28A.220.050	Information on proper use of left-hand lane.
28A.220.060	Information on effects of alcohol and drug use.
28A.220.900	Purpose.

28A.220.010 Legislative declaration. It is the purpose of *this 1977 amendatory act to provide the students of the state with an improved quality traffic safety education program and to develop in the youth of this state a knowledge of the motor vehicle laws, an acceptance of personal responsibility on the public highways, an understanding of the causes and consequences of traffic accidents, and to provide training in the skills necessary for the safe operation of motor vehicles; to provide financial assistance to the various school districts while permitting them to achieve economies through options in the choice of course content and methods of instructions by adopting in whole or with modifications, a program prepared by the office of the superintendent of public instruction, and keeping to a minimum the amount of estimating, bookkeeping and reporting required of said school districts for financial reimbursement for such traffic safety education programs. [1977 c 76 § 1. Formerly RCW 28A.08.005, 46.81.005.]

***Reviser's note:** This 1977 amendatory act consists of RCW 46.81.005 and the 1977 amendments to RCW 46.81.010, 46.81.020, and 46.81.070. Chapter 46.81 RCW has been recodified as chapter 28A.08 RCW pursuant to RCW 1.08.015 and subsequently recodified as chapter 28A.220 RCW pursuant to 1990 c 33 § 4.

Severability—1977 c 76: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the

remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 c 76 § 5.]

28A.220.020 Definitions. The following words and phrases whenever used in chapter 28A.220 RCW shall have the following meaning:

(1) "Superintendent" or "state superintendent" shall mean the superintendent of public instruction.

(2) "Traffic safety education course" shall mean an accredited course of instruction in traffic safety education which shall consist of two phases, classroom instruction, and laboratory experience. "Laboratory experience" shall include on-street, driving range, or simulator experience or some combination thereof. Each phase shall meet basic course requirements which shall be established by the superintendent of public instruction and each part of said course shall be taught by a qualified teacher of traffic safety education. Any portions of the course may be taught after regular school hours or on Saturdays as well as on regular school days or as a summer school course, at the option of the local school districts.

(3) "Qualified teacher of traffic safety education" shall mean an instructor certificated under the provisions of chapter 28A.410 RCW and certificated by the superintendent of public instruction to teach either the classroom phase or the laboratory phase of the traffic safety education course, or both, under regulations promulgated by the superintendent: PROVIDED, That the laboratory experience phase of the traffic safety education course may be taught by instructors certificated under rules promulgated by the superintendent of public instruction, exclusive of any requirement that the instructor be certificated under the provisions of chapter 28A.410 RCW. Professional instructors certificated under the provisions of chapter 46.82 RCW, and participating in this program, shall be subject to reasonable qualification requirements jointly adopted by the superintendent of public instruction and the director of licensing.

(4) "Realistic level of effort" means the classroom and laboratory student learning experiences considered acceptable to the superintendent of public instruction that must be satisfactorily accomplished by the student in order to successfully complete the traffic safety education course. [1990 c 33 § 218; 1979 c 158 § 195; 1977 c 76 § 2; 1969 ex.s. c 218 § 1; 1963 c 39 § 2. Formerly RCW 28A.08.010, 46.81.010.]

Severability—1977 c 76: See note following RCW 28A.220.010.

28A.220.030 Administration of program—Powers and duties of school officials. (1) The superintendent of public instruction is authorized to establish a section of traffic safety education, and through such section shall: Define a "realistic level of effort" required to provide an effective traffic safety education course, establish a level of driving competency required of each student to successfully complete the course, and ensure that an effective state-wide program is implemented and sustained, administer, supervise, and develop the traffic safety education program and shall assist local school districts in the conduct of their traffic safety education programs. The superintendent shall adopt necessary rules and regulations governing the operation and scope of the traffic safety education program; and each school district shall submit a report to the superintendent on

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the condition of its traffic safety education program: PROVIDED, That the superintendent shall monitor the quality of the program and carry out the purposes of this chapter.

(2) The board of directors of any school district maintaining a secondary school which includes any of the grades 10 to 12, inclusive, may establish and maintain a traffic safety education course. If a school district elects to offer a traffic safety education course and has within its boundaries a private accredited secondary school which includes any of the grades 10 to 12, inclusive, at least one class in traffic safety education shall be given at times other than regular school hours if there is sufficient demand therefor.

(3) The board of directors of a school district, or combination of school districts, may contract with any drivers' school licensed under the provisions of chapter 46.82 RCW to teach the laboratory phase of the traffic safety education course. Instructors provided by any such contracting drivers' school must be properly qualified teachers of traffic safety education under the joint qualification requirements adopted by the superintendent of public instruction and the director of licensing. [1979 c 158 § 196; 1977 c 76 § 3; 1969 ex.s. c 218 § 2; 1963 c 39 § 3. Formerly RCW 28A.08.020, 46.81.020.]

Severability—1977 c 76: See note following RCW 28A.220.010.

28A.220.040 Fiscal support—Reimbursement to school districts—Enrollment fees—Deposit. (1) Each school district shall be reimbursed from funds appropriated for traffic safety education: PROVIDED, That the state superintendent shall determine the per pupil reimbursement amount for the traffic safety education course to be funded by the state. Each school district offering an approved standard traffic safety education course shall be reimbursed or granted an amount up to the level established by the superintendent of public instruction as may be appropriated.

(2) The board of directors of any school district or combination of school districts may establish a traffic safety education fee, which fee when imposed shall be required to be paid by any duly enrolled student in any such school district prior to or while enrolled in a traffic safety education course. Traffic safety education fees collected by a school district shall be deposited with the county treasurer to the credit of such school district, to be used to pay costs of the traffic safety education course. [1984 c 258 § 331; 1977 c 76 § 4; 1969 ex.s. c 218 § 6; 1967 ex.s. c 147 § 5; 1963 c 39 § 8. Formerly RCW 28A.08.070, 46.81.070.]

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

Intent—1984 c 258: See note following RCW 3.46.120.

Severability—1977 c 76: See note following RCW 28A.220.010.

Traffic safety commission: Chapter 43.59 RCW.

28A.220.050 Information on proper use of left-hand lane. The superintendent of public instruction shall include information on the proper use of the left-hand lane on multilane highways in instructional material used in traffic safety education courses. [1986 c 93 § 4. Formerly RCW 28A.08.080.]

Keep right except when passing, etc: RCW 46.61.100.

28A.220.060 Information on effects of alcohol and drug use. The superintendent of public instruction shall include information on the effects of alcohol and drug use on motor vehicle operators, including information on drug and alcohol related traffic injury and mortality rates in the state of Washington, and current penalties for driving under the influence of drugs or alcohol in instructional material used in traffic safety education courses. [1991 c 217 s 2.]

28A.220.900 Purpose. It is the purpose of this act to provide the financial assistance necessary to enable each high school district to offer a course in traffic safety education and by that means to develop in the youth of this state a knowledge of the motor vehicle laws, an acceptance of personal responsibility on the public highways, and an understanding of the causes and consequences of traffic accidents, with an emphasis on the consequences, both physical and legal, of the use of drugs or alcohol in relation to operating a motor vehicle. The course in traffic safety education shall further provide to the youthful drivers of this state training in the skills necessary for the safe operation of motor vehicles. [1991 c 217 § 1; 1969 ex.s. c 218 § 7; 1963 c 39 § 1. Formerly RCW 28A.08.900, 46.81.900.]

Chapter 28A.225

COMPULSORY SCHOOL ATTENDANCE AND ADMISSION

Sections

28A.225.005	Compulsory education, requirements—Informing students and parents annually.	28A.225.200	Education of pupils in another district—Limitation as to state apportionment—Exemption.
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28A.225.170	Children on United States reservations, admission to schools—United States authorities to cooperate.		
28A.225.180	Children on United States reservations, admission to schools—Census by school district superintendent of contiguous district.		
28A.225.190	Reimbursing district for educating children of employees of municipal light plant.		

28A.225.005 Compulsory education, requirements—Informing students and parents annually. Each school within a school district shall inform the students and the parents of the students enrolled in the school about the compulsory education requirements under this chapter. The school shall distribute the information at least annually. [1992 c 205 § 201.]

Part headings not law—Severability—1992 c 205: See notes following RCW 13.40.010.

28A.225.010 Attendance mandatory—Age—Persons having custody shall cause child to attend public school—Child responsible for attending school—Exceptions—Excused temporary absences. (1) All parents in this state of any child eight 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 and such child shall have the responsibility to and therefore shall attend for the full time when such school may be in session unless:

(a) The child is attending an approved private school for the same time or is enrolled in an extension program as provided in RCW 28A.195.010(4);

(b) The child is receiving home-based instruction as provided in subsection (4) of this section; or

(c) 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 temporarily excused upon the request of his or her parents for purposes agreed upon by the school authorities and the parent: **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.150.250 and 28A.150.260 and shall not affect school district compliance with the provisions of RCW 28A.150.220;

(d) The child is fifteen years of age or older and:

(i) The school district superintendent determines that such child 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;

(ii) The child is regularly and lawfully engaged in a useful or remunerative occupation;

(iii) The child has already met graduation requirements in accordance with state board of education rules and regulations; or

(iv) The child has received a certificate of educational competence under rules and regulations established by the state board of education under RCW 28A.305.190.

(2) A parent for the purpose of this chapter means a parent, guardian, or person having legal custody of a child.

(3) An approved private school for the purposes of this chapter and chapter 28A.200 RCW shall be one approved under regulations established by the state board of education pursuant to RCW 28A.305.130.

(4) For the purposes of this chapter and chapter 28A.200 RCW, instruction shall be home-based if it consists of planned and supervised instructional and related educational activities, including a curriculum and instruction in the basic skills of occupational education, science, mathematics, language, social studies, history, health, reading, writing, spelling, and the development of an appreciation of art and music, provided for a number of hours equivalent to the total annual program hours per grade level established for approved private schools under RCW 28A.195.010 and 28A.195.040 and if such activities are:

(a) Provided by a parent who is instructing his or her child only and are supervised by a certificated person. A certificated person for purposes of this chapter and chapter 28A.200 RCW shall be a person certified under chapter 28A.410 RCW. For purposes of this section, "supervised by a certificated person" means: The planning by the certificated person and the parent of objectives consistent with this subsection; a minimum each month of an average of one contact hour per week with the child being supervised by the certificated person; and evaluation of such child's progress by the certificated person. The number of children supervised by the certificated person shall not exceed thirty for purposes of this subsection; or

(b) Provided by a parent who is instructing his or her child only and who has either earned forty-five college level quarter credit hours or its equivalent in semester hours or has completed a course in home-based instruction at a postsecondary institution or a vocational-technical institute; or

(c) Provided by a parent who is deemed sufficiently qualified to provide home-based instruction by the superintendent of the local school district in which the child resides.

(5) The legislature recognizes that home-based instruction is less structured and more experiential than the instruction normally provided in a classroom setting. Therefore, the provisions of subsection (4) of this section relating to the nature and quantity of instructional and related educational activities shall be liberally construed. [1990 c 33 § 219; 1986 c 132 § 1; 1985 c 441 § 1; 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 28A.27.010, 28.27.010.]

Severability—1985 c 441: "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." [1985 c 441 § 6.]

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.]

Private schools: RCW 28A.305.130(6), 28A.195.010 through 28A.195.050.
Work permits for minors required: RCW 49.12.123.

28A.225.020 School's duties upon juvenile's failure to attend school—Generally. If a juvenile required to attend school under the laws of the state of Washington fails to attend school without valid justification, the juvenile's school shall:

(1) Inform the juvenile's custodial parent, parents or guardian by a notice in writing or by telephone that the juvenile has failed to attend school without valid justification after one unexcused absence within any month during the current school year;

(2) Schedule a conference or conferences with the custodial parent, parents or guardian and juvenile at a time and place reasonably convenient for all persons included for the purpose of analyzing the causes of the juvenile's absences after two unexcused absences within any month during the current school year. If a regularly scheduled parent-teacher conference day is to take place within thirty days of the second unexcused absence, then the school district may schedule this conference on that day; and

(3) Take steps to eliminate or reduce the juvenile's absences. These steps shall include, where appropriate, adjusting the juvenile's school program or school or course assignment, providing more individualized or remedial instruction, preparing the juvenile for employment with specific vocational courses or work experience, or both, and assisting the parent or student to obtain supplementary services that might eliminate or ameliorate the cause or causes for the absence from school. [1992 c 205 § 202; 1986 c 132 § 2; 1979 ex.s. c 201 § 1. Formerly RCW 28A.27.020.]

Part headings not law—Severability—1992 c 205: See notes following RCW 13.40.010.

28A.225.030 Petition to juvenile court for violations by a parent or child—Applicability of chapter. If action taken by a school pursuant to RCW 28A.225.020 is not successful in substantially reducing a student's absences from school, any of the following actions may be taken after five or more unexcused absences during the current school year: (1) The attendance officer of the school district through its attorney may petition the juvenile court to assume jurisdiction under RCW 28A.200.010, 28A.200.020, and 28A.225.010 through 28A.225.150 for the purpose of alleging a violation of RCW 28A.225.010 by the parent; or (2) a petition alleging a violation of RCW 28A.225.010 by a child may be filed with the juvenile court by the parent of such child or by the attendance officer of the school district through its attorney at the request of the parent. If the court assumes jurisdiction in such an instance, the provisions of

RCW 28A.200.010, 28A.200.020, and 28A.225.010 through 28A.225.150, except where otherwise stated, shall apply. [1992 c 205 § 203; 1990 c 33 § 220; 1986 c 132 § 3; 1979 ex.s. c 201 § 2. Formerly RCW 28A.27.022.]

Part headings not law—Severability—1992 c 205: See notes following RCW 13.40.010.

28A.225.040 School district superintendent to provide teacher with census—Report of truants, incorrigibles. It shall be the duty of the school district superintendent, at the beginning of each school year, to provide each teacher with a copy of that portion of the last census of school children taken in his or her school district which would be pertinent to the grade or grades such teacher is instructing and it shall be the duty of every teacher to report to the proper attendance officer, all cases of truancy or incorrigibility in his or her school, immediately after the offense or offenses shall have been committed: PROVIDED, That if there is a principal the report by the teacher shall be made to the principal and by the principal transmitted to the attendance officer: PROVIDED FURTHER, That if there is a city superintendent, the principal shall transmit such report to said city superintendent, who shall transmit such report to the proper attendance officer of his or her district. [1990 c 33 § 221; 1969 ex.s. c 223 § 28A.27.030. Prior: 1909 c 97 p 367 § 6; RRS § 5077; prior: 1907 c 231 § 6; 1905 c 162 § 6; 1903 c 48 §§ 2, 3, 4. Formerly RCW 28A.27.030, 28.27.030.]

28A.225.050 Attendance enforcement officers—Authority—Record and report. To aid in the enforcement of RCW 28A.225.010 through 28A.225.140, attendance officers shall be appointed and employed as follows: In incorporated city districts the board of directors shall annually appoint one or more attendance officers. In all other districts the educational service district superintendent shall appoint one or more attendance officers or may act as such himself or herself.

The compensation of attendance officer in city districts shall be fixed and paid by the board appointing him or her. The compensation of attendance officers when appointed by the educational service district superintendents shall be paid by the respective districts. An educational service district superintendent shall receive no extra compensation if acting as attendance officer.

Any sheriff, constable, city marshal or regularly appointed police officer may be appointed attendance officer.

The attendance officer shall be vested with police powers, the authority to make arrests and serve all legal processes contemplated by RCW 28A.225.010 through 28A.225.140, and shall have authority to enter all places in which children may be employed, for the purpose of making such investigations as may be necessary for the enforcement of RCW 28A.225.010 through 28A.225.140. The attendance officer is authorized to take into custody the person of any child eight years of age and not over fourteen years of age, who may be a truant from school, and to conduct such child to his or her parents, for investigation and explanation, or to the school which he or she should properly attend. The attendance officer shall institute proceedings against any officer, parent, guardian, person, company or corporation

violating any provisions of RCW 28A.225.010 through 28A.225.140, and shall otherwise discharge the duties prescribed in RCW 28A.225.010 through 28A.225.140, and shall perform such other services as the educational service district superintendent or the superintendent of any school or its board of directors may deem necessary. However, the attendance officer shall not institute proceedings against the child under RCW 28A.225.030 except as set forth under RCW 28A.225.030.

The attendance officer shall keep a record of his or her transactions for the inspection and information of any school district board of directors, the educational service district superintendent or the city superintendent, and shall make a detailed report to the city superintendent or the educational service district superintendent as often as the same may be required. [1990 c 33 § 222; 1986 c 132 § 4; 1975 1st ex.s. c 275 § 56; 1971 c 48 § 9; 1969 ex.s. c 176 § 105; 1969 ex.s. c 223 § 28A.27.040. Prior: 1909 c 97 p 365 § 4; RRS § 5075; prior: 1907 c 231 § 4; 1905 c 162 § 4. Formerly RCW 28A.27.040, 28.27.040, 28.27.050 and 28.27.060.]

Severability—1971 c 48: See note following RCW 28A.305.040.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.225.060 Acquiring custody and disposition of truants. Any attendance officer, sheriff, deputy sheriff, marshal, police officer, or any other officer authorized to make arrests, shall take into custody without a warrant a child who is required under the provisions of RCW 28A.225.010 through 28A.225.140 to attend school, such child then being a truant from instruction at the school which he or she is lawfully required to attend, and shall forthwith deliver a child so detained either (1) to the custody of a person in parental relation to the child or (2) to the school from which the child is then a truant. [1990 c 33 s 223; 1979 ex.s. c 201 s 5; 1977 ex.s. c 291 s 52; 1969 ex.s. c 223 s 28A.27.070. Prior: 1909 c 97 p 366 s 5; RRS s 5076; prior: 1907 c 231 s 5; 1905 c 162 s 5. Formerly RCW 28A.27.070, 28.27.070.]

Effective dates—Severability—1977 ex.s. c 291: See notes following RCW 13.04.005.

28A.225.070 Annual notice of chapter provisions by ESD superintendent—Superintendent's report—Penalty for false or failure to report. The educational service district superintendent, on or before the fifteenth day of August of each year, by printed circular or otherwise, shall call the attention of all school district officials to the provisions of RCW 28A.225.010 through 28A.225.140, and to the penalties prescribed for the violation of its provisions, and he or she shall require those officials of the school district which he or she shall designate to make a report annually hereafter, verified by affidavit, stating whether or not the provisions of RCW 28A.225.010 through 28A.225.140 have been faithfully complied with in his or her district. Such reports shall be made upon forms to be furnished by the superintendent of public instruction and shall be transmitted to the educational service district superintendent at such time as the educational service district superintendent shall determine, after notice thereof. Any school district official who shall knowingly or willfully make

a false report relating to the enforcement of the provisions of RCW 28A.225.010 through 28A.225.140 or fail to report as herein provided shall be deemed guilty of a misdemeanor, and upon conviction in a court of competent jurisdiction shall be fined not less than twenty-five dollars nor more than one hundred dollars; and any school district official who shall refuse or neglect to make the report required in this section, shall be personally liable to his or her district for any loss which it may sustain because of such neglect or refusal to report. [1990 c 33 § 224; 1975 1st ex.s. c 275 § 57; 1969 ex.s. c 176 § 106; 1969 ex.s. c 223 § 28A.27.080. Prior: 1909 c 97 p 367 § 9; RRS § 5080; prior: 1907 c 231 § 9. Formerly RCW 28A.27.080, 28.27.080, and 28.87.040.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.225.080 Employment permits. Except as otherwise provided in this code, no child under the age of fifteen years shall be employed for any purpose by any person, company or corporation, in this state during the hours which the public schools of the district in which such child resides are in session, unless the said child shall present a certificate from a school superintendent as provided for in RCW 28A.225.010, excusing the said child from attendance in the public schools and setting forth the reason for such excuse, the residence and age of the child, and the time for which such excuse is given. Every owner, superintendent, or overseer of any establishment, company or corporation shall keep such certificate on file so long as such child is employed by him or her. The form of said certificate shall be furnished by the superintendent of public instruction. Proof that any child under fifteen years of age is employed during any part of the period in which public schools of the district are in session, shall be deemed prima facie evidence of a violation of this section. [1990 c 33 § 225; 1969 ex.s. c 223 § 28A.27.090. Prior: 1909 c 97 p 365 § 2; RRS § 5073; prior: 1907 c 231 § 2; 1905 c 162 § 2; 1903 c 48 § 2. Formerly RCW 28A.27.090, 28.27.090.]

28A.225.090 Penalties in general—Defense—Suspension of fine—Complaints to court. Any person violating any of the provisions of either RCW 28A.225.010 or 28A.225.080 shall be fined not more than twenty-five dollars for each day of unexcused absence from school. However, a child found to be in violation of RCW 28A.225.010 shall be required to attend school and shall not be fined. If the child fails to comply with the court order to attend school, the court may order the child be punished by detention or may impose alternatives to detention such as community service hours or participation in dropout prevention programs or referral to a community truancy board, if available. Failure by a child to comply with an order issued under this section shall not be punishable by detention for a period greater than that permitted pursuant to a contempt proceeding against a child under chapter 13.32A RCW. It shall be a defense for a parent charged with violating RCW 28A.225.010 to show that he or she exercised reasonable diligence in attempting to cause a child in his or her custody to attend school or that the juvenile's school did not perform its duties as required in RCW 28A.225.020. Any fine imposed pursuant to this section may be suspended upon the

condition that a parent charged with violating RCW 28A.225.010 shall participate with the school and the juvenile in a supervised plan for the juvenile's attendance at school or upon condition that the parent attend a conference or conferences scheduled by a school for the purpose of analyzing the causes of a child's absence.

Attendance officers shall make complaint for violation of the provisions of RCW 28A.225.010 through 28A.225.140 to a judge of the superior or district court. [1992 c 205 § 204; 1990 c 33 § 226; 1987 c 202 § 189; 1986 c 132 § 5; 1979 ex.s. c 201 § 6; 1969 ex.s. c 223 § 28A.27.100. Prior: 1909 c 97 p 365 § 3; RRS § 5074; prior: 1907 c 231 § 3; 1905 c 162 § 3. Formerly RCW 28A.27.100, 28.27.100.]

Part headings not law—Severability—1992 c 205: See notes following RCW 13.40.010.

Intent—1987 c 202: See note following RCW 2.04.190.

28A.225.100 Penalty for nonperformance of duty—Disposition of fines. Any school district superintendent, teacher or attendance officer who shall fail or refuse to perform the duties prescribed by RCW 28A.225.010 through 28A.225.140 shall be deemed guilty of a misdemeanor and, upon conviction thereof, be fined not less than twenty nor more than one hundred dollars: PROVIDED, That in case of a school district employee, such fine shall be paid to the appropriate county treasurer and by the county treasurer placed to the credit of the school district in which said employee is employed, and in case of all other officers such fine shall be paid to the county treasurer of the county in which the educational service district headquarters is located and by the county treasurer placed to the credit of the general school fund of the educational service district: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a district 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. [1990 c 33 § 227; 1987 c 202 § 190; 1975 1st ex.s. c 275 § 58; 1970 ex.s. c 15 § 14. Prior: 1969 ex.s. c 199 § 53; 1969 ex.s. c 176 § 107; 1969 ex.s. c 223 § 28A.27.102; prior: 1909 p 368 § 10; RRS § 5081; 1907 c 231 § 10; 1905 c 162 § 10; 1903 c 48 § 7. Formerly RCW 28A.27.102, 28.27.102, 28.27.100, part.]

Intent—1987 c 202: See note following RCW 2.04.190.

Severability—1970 ex.s. c 15: See note following RCW 28A.230.160.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.225.110 Fines applied to support of schools. Notwithstanding the provisions of RCW 10.82.070, all fines except as otherwise provided in RCW 28A.225.010 through 28A.225.140 shall inure and be applied to the support of the public schools in the school district where such offense was committed: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a district 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. [1990 c 33 § 228; 1987 c 202 § 191; 1969 ex.s. c 199 § 54; 1969 ex.s. c 223 § 28A.27.104. Prior: 1909 c 97 p 368 § 11; RRS § 5082; prior: 1907 c 231 § 12; 1905 c 162 § 11. Formerly RCW 28A.27.104, 28.27.104, 28.27.100, part.]

Intent—1987 c 202: See note following RCW 2.04.190.

28A.225.120 Prosecuting attorney or attorney for district to act for complainant. The county prosecuting attorney or the attorney for the school district shall act as attorney for the complainant in all court proceedings relating to the compulsory attendance of children as required by RCW 28A.225.010 through 28A.225.140 except for those petitions filed against a child by the parent without the assistance of the school district. [1990 c 33 § 229; 1986 c 132 § 6; 1979 ex.s. c 201 § 7; 1969 ex.s. c 223 § 28A.27.110. Prior: 1909 c 97 p 367 § 8; RRS § 5079; prior: 1901 c 177 § 19; 1899 c 142 § 25; 1897 c 118 § 177; 1890 p 382 § 83. Formerly RCW 28A.27.110, 28.27.110.]

28A.225.130 Courts have concurrent jurisdiction. In cases arising under RCW 28A.225.010 through 28A.225.140, all district courts, municipal courts or departments, and superior courts in the state of Washington shall have concurrent jurisdiction. [1990 c 33 § 230; 1987 c 202 § 192; 1969 ex.s. c 223 § 28A.27.120. Prior: 1909 c 97 p 367 § 7; RRS § 5078; prior: 1907 c 231 § 7; 1905 c 162 § 7. Formerly RCW 28A.27.120, 28.27.120.]

Intent—1987 c 202: See note following RCW 2.04.190.

28A.225.140 Enforcing officers not personally liable for costs. No officer performing any duty under any of the provisions of RCW 28A.225.010 through 28A.225.140, or under the provisions of any rules that may be passed in pursuance hereof, shall in any wise become liable for any costs that may accrue in the performance of any duty prescribed by RCW 28A.225.010 through 28A.225.140. [1990 c 33 § 231; 1969 ex.s. c 223 § 28A.27.130. Prior: 1909 c 97 p 368 § 12; RRS § 5083; prior: 1907 c 231 § 13; 1905 c 162 § 12. Formerly RCW 28A.27.130, 28.27.130.]

28A.225.150 Reports by school district attendance officers—Compilation of information and reports. The school district attendance officer shall report biannually to the educational service district superintendent, in the instance of petitions filed alleging a violation by a child under RCW 28A.225.030:

- (1) The number of petitions filed by a school district or by a parent;
- (2) The frequency of each action taken under RCW 28A.225.020 prior to the filing of such petition;
- (3) When deemed appropriate under RCW 28A.225.020, the frequency of delivery of supplemental services; and
- (4) Disposition of cases filed with the juvenile court, including the frequency of contempt orders issued to enforce a court's order under RCW 28A.225.090.

The educational service district superintendent shall compile such information and report annually to the superintendent of public instruction. The superintendent of public instruction shall compile such information and report to the committees of the house of representatives and the senate by September 1 of each year. [1992 c 205 § 205; 1990 c 33 § 232; 1986 c 132 § 7. Formerly RCW 28A.27.140.]

Part headings not law—Severability—1992 c 205: See notes following RCW 13.40.010.

28A.225.160 Qualification for admission to district's schools—Fees for preadmission screening. Except as otherwise provided by law, it is the general policy of the state that the common schools shall be open to the admission of all persons who are five years of age and less than twenty-one years residing in that school district. Except as otherwise provided by law, the state board of education is hereby authorized to adopt rules in accordance with chapter 34.05 RCW which establish uniform entry qualifications, including but not limited to birth date requirements, for admission to kindergarten and first grade programs of the common schools. Such rules may provide for exceptions based upon the ability, or the need, or both, of an individual student. For the purpose of complying with any rule adopted by the state board of education which authorizes a preadmission screening process as a prerequisite to granting exceptions to the uniform entry qualifications, a school district may collect fees not to exceed seventy-five dollars per preadmission student to cover expenses incurred in the administration of such a screening process: **PROVIDED,** That in so establishing such fee or fees, the district shall adopt regulations for waiving and reducing such fees in the cases of those persons whose families, by reason of their low income, would have difficulty in paying the entire amount of such fees. [1986 c 166 § 1; 1979 ex.s. c 250 § 4; 1977 ex.s. c 359 § 14; 1969 ex.s. c 223 § 28A.58.190. Prior: 1909 c 97 p 261 § 1, part; RRS § 4680, part; prior: 1897 c 118 § 64, part; 1890 p 371 § 44, part. Formerly RCW 28A.58.190, 28.58.190 part, 28.01.060.]

Effective date—Severability—1979 ex.s. c 250: See notes following RCW 28A.150.220.

Effective date—Severability—1977 ex.s. c 359: See notes following RCW 28A.150.200.

Basic Education Act, RCW 28A.225.160 as part of: RCW 28A.150.200.

28A.225.170 Children on United States reservations, admission to schools—United States authorities to cooperate. Any child who is of school age and otherwise eligible residing within the boundaries of any military, naval, lighthouse, or other United States reservation, national park or national forest or residing upon rented or leased undeeded lands within any Indian reservation within the state of Washington, shall be admitted to the public school, or schools, of any contiguous district without payment of tuition: **PROVIDED,** That the United States authorities in charge of such reservation or park shall cooperate fully with state, county, and school district authorities in the enforcement of the laws of this state relating to the compulsory attendance of children of school age, and all laws relating to and regulating school attendance. [1969 ex.s. c 223 § 28A.58.210. Prior: 1945 c 141 § 10; 1933 c 28 § 10; 1925 ex.s. c 93 § 1; Rem. Supp. 1945 § 4680-1. Formerly RCW 28A.58.210, 28.58.210, 28.27.140.]

28A.225.180 Children on United States reservations, admission to schools—Census by school district superintendent of contiguous district. It shall be the duty of the school district superintendent of a school district contiguous to any United States military, naval or lighthouse reservation or national park in which the majority of children residing within such reservation or park attend, to take a census of

the children residing within such reservation or park at the time of taking the census of the school children of the school district superintendent's district as otherwise provided by law and to report such census in the manner provided by law for reporting the school census of his or her district. [1990 c 33 § 233; 1969 ex.s. c 223 § 28A.58.215. Prior: 1925 ex.s. c 93 § 3; RRS § 4680-3. Formerly RCW 28A.58.215, 28.58.215.]

28A.225.190 Reimbursing district for educating children of employees of municipal light plant. Any city operating a public utility pursuant to the provisions of RCW 35.92.050, with a plant for the generation of electricity located within the limits of any school district outside of the corporate limits of such city which shall cause any loss of revenues and/or increase the financial burden of any such school district affected because of an increase in the number of pupils by reason of the operation of such generating facility, shall provide for recompensing such losses or alleviating such financial burden through agreement with such school district in accordance with the provisions of RCW 35.21.425 through 35.21.427. [1969 ex.s. c 223 § 28A.58.220. Prior: 1929 c 77 § 1; RRS § 4680-5. Formerly RCW 28A.58.220, 28.58.220.]

City or town acquiring electrical utilities may pay taxing districts in amount of prior taxes paid: RCW 35.21.430.

City taking over utility plant may help pay outstanding bonded indebtedness of school district: RCW 35.21.440.

28A.225.200 Education of pupils in another district—Limitation as to state apportionment—Exemption. (1) A local district may be authorized by the educational service district superintendent to transport and educate its pupils in other districts for one year, either by payment of a compensation agreed upon by such school districts, or under other terms mutually satisfactory to the districts concerned when this will afford better educational facilities for the pupils and when a saving may be effected in the cost of education: PROVIDED, That notwithstanding any other provision of law, the amount to be paid by the state to the resident school district for apportionment purposes and otherwise payable pursuant to RCW 28A.150.100, 28A.150.250 through 28A.150.290, 28A.150.350 through 28A.150.410, 28A.160.150 through 28A.160.200, 28A.160.220, 28A.300.170, and 28A.500.010 shall not be greater than the regular apportionment for each high school student of the receiving district. Such authorization may be extended for an additional year at the discretion of the educational service district superintendent.

(2) Subsection (1) of this section shall not apply to districts participating in a cooperative project established under RCW 28A.340.030 which exceeds two years in duration. [1990 c 33 § 234; 1988 c 268 § 6; 1979 ex.s. c 140 § 1; 1975 1st ex.s. c 275 § 111; 1969 ex.s. c 176 § 141; 1969 ex.s. c 223 § 28A.58.225. Prior: 1965 ex.s. c 154 § 10. Formerly RCW 28A.58.225, 28.24.110.]

Findings—Severability—1988 c 268: See notes following RCW 28A.340.010.

Severability—1979 ex.s. c 140: "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." [1979 ex.s. c 140 § 4.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.225.210 Admission of out-of-district pupils tuition free, when. Every school district shall admit on a tuition free basis all persons of school age who reside within this state, and do not reside within another school district carrying the grades for which they are eligible to enroll: PROVIDED, That nothing in this section shall be construed as affecting RCW 28A.225.220 or 28A.225.250. [1990 c 33 § 235; 1983 c 3 § 37; 1969 c 130 § 9; 1969 ex.s. c 223 § 28A.58.230. Prior: 1917 c 21 § 9; RRS § 4718. Formerly RCW 28A.58.230, 28.58.230.]

Designation of high school district nonhigh district students shall attend—Effect when attendance otherwise: RCW 28A.540.110.

Education of handicapped children: RCW 28A.155.050.

28A.225.215 Enrollment of children without legal residences. (1) A school district shall not require proof of residency or any other information regarding an address for any child who is eligible by reason of age for the services of the school district if the child does not have a legal residence.

(2) A school district shall enroll a child without a legal residence under subsection (1) of this section at the request of the child or parent or guardian of the child. [1989 c 118 § 1. Formerly RCW 28A.58.235.]

28A.225.220 Adults, children from other districts, agreements for attending school—Tuition—Transfer fees. (1) Any board of directors may make agreements with adults choosing to attend school: PROVIDED, That unless such arrangements are approved by the state superintendent of public instruction, a reasonable tuition charge, fixed by the state superintendent of public instruction, shall be paid by such students as best may be accommodated therein.

(2) A district is strongly encouraged to honor the request of a parent or guardian for his or her child to attend a school in another district.

(3) A district shall release a student to a nonresident district that agrees to accept the student if:

(a) A financial, educational, safety, or health condition affecting the student would likely be reasonably improved as a result of the transfer; or

(b) Attendance at the school in the nonresident district is more accessible to the parent's place of work or to the location of child care; or

(c) There is a special hardship or detrimental condition.

(4) A district may deny the request of a resident student to transfer to a nonresident district if the release of the student would adversely affect the district's existing desegregation plan.

(5) For the purpose of helping a district assess the quality of its education program, a resident school district may request an optional exit interview or questionnaire with the parents or guardians of a child transferring to another district. No parent or guardian may be forced to attend such an interview or complete the questionnaire.

(6) School districts may establish annual transfer fees for nonresident students enrolled under subsection (3) of this section and RCW 28A.225.225. Until rules are adopted

under section 202, chapter 9, Laws of 1990 1st ex. sess. for the calculation of the transfer fee, the transfer fee shall be calculated by the same formula as the fees authorized under section 10, chapter 130, Laws of 1969. These fees, if applied, shall be applied uniformly for all such nonresident students except as provided in this section. The superintendent of public instruction, from available funds, shall pay any transfer fees for low-income students assessed by districts under this section. All transfer fees must be paid over to the county treasurer within thirty days of its collection for the credit of the district in which such students attend. Reimbursement of a high school district for cost of educating high school pupils of a nonhigh school district shall not be deemed a transfer fee as affecting the apportionment of current state school funds. [1990 1st ex.s. c 9 § 201; 1969 c 130 § 10; 1969 ex.s. c 223 § 28A.58.240. Prior: 1963 c 47 § 2; prior: 1921 c 44 § 1, part; 1899 c 142 § 8, part; RRS § 4780, part. Formerly RCW 28A.58.240, 28.58.240.]

Finding—1990 1st ex.s. c 9: "The legislature finds that academic achievement of Washington students can and should be improved. The legislature further finds that student success depends, in large part, on increased parental involvement in their children's education.

In order to take another step toward improving education in Washington, it is the purpose of this act to enhance the ability of parents to exercise choice in where they prefer their children attend school; inform parents of their options under local policies and state law for the intradistrict and interdistrict enrollment of their children; and provide additional program opportunities for secondary students." [1990 1st ex.s. c 9 § 101.]

Severability—1990 1st ex.s. c 9: "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." [1990 1st ex.s. c 9 § 502.]

Education of handicapped children: RCW 28A.155.040, 28A.155.050.

28A.225.225 Applications to attend nonresident district—Acceptance and rejection—Notification. (1) All districts accepting applications from nonresident students for admission to the district's schools shall consider equally all applications received. Each school district shall adopt a policy establishing rational, fair, and equitable standards for acceptance and rejection of applications by June 30, 1990.

(2) The district shall provide to applicants written notification of the approval or denial of the application in a timely manner. If the application is rejected, the notification shall include the reason or reasons for denial and the right to appeal under RCW 28A.225.230(3). [1990 1st ex.s. c 9 § 203.]

Captions, headings not law—1990 1st ex.s. c 9: "Part headings and section headings do not constitute any part of the law." [1990 1st ex.s. c 9 § 501.]

Finding—Severability—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

28A.225.230 Appeal from certain decisions to deny student's request to attend nonresident district—Procedure. (1) The decision of a school district within which a student under the age of twenty-one years resides or of a school district within which such a student under the age of twenty-one years was last enrolled and is considered to be a resident for attendance purposes by operation of law, to deny such student's request for release to a nonresident school district pursuant to RCW 28A.225.220 may be appealed to the superintendent of public instruction or his or

her designee: PROVIDED, That the school district of proposed transfer is willing to accept the student.

(2) The superintendent of public instruction or his or her designee shall hear the appeal and examine the evidence. The superintendent of public instruction may order the resident district to release such a student who is under the age of twenty-one years if the requirements of RCW 28A.225.220 have been met. The decision of the superintendent of public instruction may be appealed to superior court pursuant to chapter 34.05 RCW, the administrative procedure act, as now or hereafter amended.

(3) The decision of a school district to deny the request for accepting the transfer of a nonresident student under RCW 28A.225.225 may be appealed to the superintendent of public instruction or his or her designee. The superintendent or his or her designee shall hear the appeal and examine the evidence. The superintendent of public instruction may order the district to accept the nonresident student if the district did not comply with the standards and procedures adopted under RCW 28A.225.225. The decision of the superintendent of public instruction may be appealed to the superior court under chapter 34.05 RCW. [1990 1st ex.s. c 9 § 204; 1990 c 33 § 236; 1977 c 50 § 1; 1975 1st ex.s. c 66 § 1. Formerly RCW 28A.58.242.]

Finding—Severability—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

Severability—1975 1st ex.s. c 66: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 66 § 4.]

Designation of high school district nonhigh district students shall attend—Effect when attendance otherwise: RCW 28A.540.110.

28A.225.240 Apportionment credit. If a student under the age of twenty-one years is allowed to enroll in any common school outside the school district within which the student resides or a school district of which the student is considered to be a resident for attendance purposes by operation of law, the student's attendance shall be credited to the nonresident school district of enrollment for state apportionment and all other purposes. [1975 1st ex.s. c 66 § 2. Formerly RCW 28A.58.243.]

Severability—1975 1st ex.s. c 66: See note following RCW 28A.225.230.

28A.225.250 Voluntary, tuition free attendance programs among school districts, scope—Rules and regulations. Notwithstanding any other provision of law, the state superintendent of public instruction is directed and authorized to develop and adopt rules and regulations to implement such voluntary, tuition free attendance programs among school districts that he deems necessary for the expressed purpose of:

(1) Providing educational opportunities, including vocational skills programs, not otherwise provided;

(2) Avoiding unnecessary duplication of specialized or unusually expensive educational programs and facilities; or

(3) Improving racial balance within and among school districts: PROVIDED, That no voluntary, tuition free attendance program among school districts developed by the superintendent of public instruction shall be instituted unless such program receives the approval of the boards of directors

of the districts. [1969 c 130 § 11. Formerly RCW 28A.58.243.]

Education of handicapped children: RCW 28A.155.040, 28A.155.050.

28A.225.260 Reciprocity exchanges with other states. If the laws of another state permit its school districts to extend similar privileges to pupils resident in this state, the board of directors of any school district contiguous to a school district in such other state may make agreements with the officers of the school district of that state for the attendance of any pupils resident therein upon the payment of tuition.

If a district accepts out-of-state pupils whose resident district is contiguous to a Washington school district, such district shall charge and collect the cost for educating such pupils and shall not include such out-of-state pupils in the computation of the district's share of state and/or county funds.

The board of directors of any school district which is contiguous to a school district in another state may make agreements for and pay tuition for any children of their district desiring to attend school in the contiguous district of the other state. The tuition to be paid for the attendance of resident pupils in an out-of-state school as provided in this section shall be no greater than the cost of educating such elementary or secondary pupils, as the case may be, in the out-of-state educating district. [1969 ex.s. c 223 § 28A.58.250. Prior: 1963 c 47 § 3; prior: 1921 c 44 § 1, part; 1899 c 142 § 8, part; RRS § 4780, part. Formerly RCW 28A.58.250, 28.58.250.]

Education of handicapped children: RCW 28A.155.040.

28A.225.270 Intradistrict enrollment options policies. Each school district in the state shall adopt and implement a policy allowing intradistrict enrollment options no later than June 30, 1990. Each district shall establish its own policy establishing standards on how the intradistrict enrollment options will be implemented. [1990 1st ex.s. c 9 § 205.]

Captions, headings not law—1990 1st ex.s. c 9: See note following RCW 28A.225.225.

Finding—Severability—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

28A.225.280 Transfer students' eligibility for extracurricular activities. Eligibility of transfer students under RCW 28A.225.220 and 28A.225.225 for participation in extracurricular activities shall be subject to rules adopted by the Washington interscholastic activities association as authorized by the state board of education. [1990 1st ex.s. c 9 § 206.]

Captions, headings not law—1990 1st ex.s. c 9: See note following RCW 28A.225.225.

Finding—Severability—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

28A.225.290 Enrollment options information booklet. (1) The superintendent of public instruction shall prepare and annually distribute an information booklet outlining parents' and guardians' enrollment options for their children.

(2) Before the 1991-92 school year, the booklet shall be distributed to all school districts by the office of the superintendent of public instruction. School districts shall have a copy of the information booklet available for public inspection at each school in the district, at the district office, and in public libraries.

(3) The booklet shall include:

(a) Information about enrollment options and program opportunities, including but not limited to programs in RCW 28A.225.220, 28A.185.040, 28A.225.200 through 28A.225.215, 28A.225.230 through 28A.225.250, 28A.175.090, 28A.340.010 through 28A.340.070 (small high school cooperative projects), and 28A.335.160.

(b) Information about the running start - community college or vocational-technical institute choice program under RCW 28A.600.300 through 28A.600.395; and

(c) Information about the seventh and eighth grade choice program under RCW 28A.230.090. [1990 1st ex.s. c 9 § 207.]

Captions, headings not law—1990 1st ex.s. c 9: See note following RCW 28A.225.225.

Finding—Severability—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

28A.225.300 Enrollment options information to parents. Each school district board of directors annually shall inform parents of the district's intradistrict and interdistrict enrollment options and parental involvement opportunities. Information on intradistrict enrollment options and interdistrict acceptance policies shall be provided to nonresidents on request. [1990 1st ex.s. c 9 § 208.]

Captions, headings not law—1990 1st ex.s. c 9: See note following RCW 28A.225.225.

Finding—Severability—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

28A.225.310 Attendance in school district of choice—Impact on existing cooperative arrangements. Any school district board of directors may make arrangements with the board of directors of other districts for children to attend the school district of choice. Nothing under RCW 28A.225.220 and 28A.225.225 is intended to adversely affect agreements between school districts in effect on April 11, 1990. [1990 1st ex.s. c 9 § 209.]

Captions, headings not law—1990 1st ex.s. c 9: See note following RCW 28A.225.225.

Finding—Severability—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

28A.225.320 Information on student transfers—Reports. (1) The superintendent of public instruction shall collect and maintain information on student transfers for each district and state-wide under RCW 28A.225.220 and 28A.225.225.

(2) The superintendent of public instruction shall report to the legislature and the governor annually beginning December 1, 1992, the following information:

(a) The number of and reason or reasons for requests for transfer out of a district;

(b) The number of and reason or reasons for the denial of a request to transfer out of a district;

(c) The number of and reason or reasons for requests for transfer into a district;

(d) The number of and reason or reasons for the denial of a request to transfer into a district; and

(e) The impact, if any, on a district's educational program as a result of the transfer of a student or students to another district. [1990 1st ex.s. c 9 § 210.]

Captions, headings not law—1990 1st ex.s. c 9: See note following RCW 28A.225.225.

Finding—Severability—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

Chapter 28A.230

COMPULSORY COURSEWORK AND ACTIVITIES

Sections

28A.230.010	Course content requirements—Duties of school district boards of directors.
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28A.230.260	Annual report to the legislature.

AIDS prevention education: Chapter 70.24 RCW.

28A.230.010 Course content requirements—Duties of school district boards of directors. School district boards of directors shall identify and offer courses with content that meet or exceed: (1) The basic education skills identified in RCW 28A.150.210; (2) the graduation require-

ments under RCW 28A.230.090; and (3) the courses required to meet the minimum college entrance requirements under RCW 28A.230.130. Such courses may be applied or theoretical, academic or vocational. [1990 c 33 § 237; 1984 c 278 § 2. Formerly RCW 28A.05.005.]

Severability—1984 c 278: See note following RCW 28A.185.010.

28A.230.020 Common school curriculum—

Fundamentals in conduct. All common schools shall give instruction in reading, penmanship, orthography, written and mental arithmetic, geography, the history of the United States, English grammar, physiology and hygiene with special reference to the effects of alcohol and drug abuse on the human system, science with special reference to the environment, and such other studies as may be prescribed by rule or regulation of the state board of education. All teachers shall stress the importance of the cultivation of manners, the fundamental principles of honesty, honor, industry and economy, the minimum requisites for good health including the beneficial effect of physical exercise and methods to prevent exposure to and transmission of sexually transmitted diseases, and the worth of kindness to all living creatures and the land. The prevention of child abuse may be offered as part of the curriculum in the common schools. [1991 c 116 § 6; 1988 c 206 § 403; 1987 c 232 § 1; 1986 c 149 § 4; 1969 c 71 § 3; 1969 ex.s. c 223 § 28A.05.010. Prior: 1909 p 262 § 2; RRS § 4681; prior: 1897 c 118 § 65; 1895 c 5 § 1; 1890 p 372 § 45; 1886 p 19 § 52. Formerly RCW 28A.05.010, 28.05.010, and 28.05.020.]

Effective date—1988 c 206 §§ 402, 403: See note following RCW 28A.230.070.

Severability—1988 c 206: See RCW 70.24.900.

Child abuse and neglect—Development of primary prevention program: RCW 28A.300.160.

Districts to develop programs and establish programs regarding child abuse and neglect prevention: RCW 28A.230.080.

28A.230.030 Students taught in English language—

Exception. All students in the common schools of the state of Washington shall be taught in the English language: PROVIDED, That nothing in this section shall preclude the teaching of students in a language other than English when such instruction will aid the educational advancement of the student. [1969 c 71 § 4. Formerly RCW 28A.05.015.]

28A.230.040 Physical education in grades one through eight. Every pupil attending grades one through eight of the public schools shall receive instruction in physical education as prescribed by rule or regulation of the state board of education: PROVIDED, That individual pupils or students may be excused on account of physical disability, religious belief or participation in directed athletics. [1984 c 52 § 1; 1969 ex.s. c 223 § 28A.05.030. Prior: 1919 c 89 § 1; RRS § 4682. Formerly RCW 28A.05.030, 28.05.030.]

28A.230.050 Physical education in high schools. All high schools of the state shall emphasize the work of physical education, and carry into effect all physical education requirements established by rule or regulation of the state board of education: PROVIDED, That individual

students may be excused from participating in physical education otherwise required under this section on account of physical disability, employment or religious belief, or because of participation in directed athletics or military science and tactics or for other good cause. [1985 c 384 § 3; 1984 c 52 § 2; 1969 ex.s. c 223 § 28A.05.040. Prior: 1963 c 235 § 1, part; prior: (i) 1923 c 78 § 1, part; 1919 c 89 § 2, part; RRS § 4683, part. (ii) 1919 c 89 § 5, part; RRS § 4686, part. Formerly RCW 28A.05.040, 28.05.040, part.]

28A.230.060 Waiver of course of study in Washington's history and government. Students in the twelfth grade who have not completed a course of study in Washington's history and state government because of previous residence outside the state may have the requirement in RCW 28A.230.090 waived by their principal. [1991 c 116 § 7; 1969 ex.s. c 57 § 2; 1969 ex.s. c 223 § 28A.05.050. Prior: 1967 c 64 § 1, part; 1963 c 31 § 1, part; 1961 c 47 § 2, part; 1941 c 203 § 1, part; Rem. Supp. 1941 § 4898-3, part. Formerly RCW 28A.05.050, 28.05.050.]

28A.230.070 AIDS education in public schools—Limitations—Program adoption—Model curricula—Student's exclusion from participation. (1) The life-threatening dangers of acquired immunodeficiency syndrome (AIDS) and its prevention shall be taught in the public schools of this state. AIDS prevention education shall be limited to the discussion of the life-threatening dangers of the disease, its spread, and prevention. Students shall receive such education at least once each school year beginning no later than the fifth grade.

(2) Each district board of directors shall adopt an AIDS prevention education program which is developed in consultation with teachers, administrators, parents, and other community members including, but not limited to, persons from medical, public health, and mental health organizations and agencies so long as the curricula and materials developed for use in the AIDS education program either (a) are the model curricula and resources under subsection (3) of this section, or (b) are developed by the school district and approved for medical accuracy by the office on AIDS established in RCW 70.24.250. If a district elects to use curricula developed by the school district, the district shall submit to the office on AIDS a copy of its curricula and an affidavit of medical accuracy stating that the material in the district-developed curricula has been compared to the model curricula for medical accuracy and that in the opinion of the district the district-developed materials are medically accurate. Upon submission of the affidavit and curricula, the district may use these materials until the approval procedure to be conducted by the office of AIDS has been completed.

(3) Model curricula and other resources available from the superintendent of public instruction through the state clearinghouse for educational information may be reviewed by the school district board of directors, in addition to materials designed locally, in developing the district's AIDS education program. The model curricula shall be reviewed for medical accuracy by the office on AIDS established in

RCW 70.24.250 within the department of social and health services.

(4) Each school district shall, at least one month before teaching AIDS prevention education in any classroom, conduct at least one presentation during weekend and evening hours for the parents and guardians of students concerning the curricula and materials that will be used for such education. The parents and guardians shall be notified by the school district of the presentation and that the curricula and materials are available for inspection. No student may be required to participate in AIDS prevention education if the student's parent or guardian, having attended one of the district presentations, objects in writing to the participation.

(5) The office of the superintendent of public instruction with the assistance of the office on AIDS shall update AIDS education curriculum material as newly discovered medical facts make it necessary.

(6) The curriculum for AIDS prevention education shall be designed to teach students which behaviors place a person dangerously at risk of infection with the human immunodeficiency virus (HIV) and methods to avoid such risk including, at least:

(a) The dangers of drug abuse, especially that involving the use of hypodermic needles; and

(b) The dangers of sexual intercourse, with or without condoms.

(7) The program of AIDS prevention education shall stress the life-threatening dangers of contracting AIDS and shall stress that abstinence from sexual activity is the only certain means for the prevention of the spread or contraction of the AIDS virus through sexual contact. It shall also teach that condoms and other artificial means of birth control are not a certain means of preventing the spread of the AIDS virus and reliance on condoms puts a person at risk for exposure to the disease. [1988 c 206 § 402. Formerly RCW 28A.05.055.]

Effective date—1988 c 206 §§ 402, 403: "Sections 402 and 403 of this act shall take effect July 1, 1988." [1988 c 206 § 404.]

Severability—1988 c 206: See RCW 70.24.900.

28A.230.080 Prevention of child abuse and neglect—Written policy—Participation in and establishment of programs. (1) Every school district board of directors shall develop a written policy regarding the district's role and responsibility relating to the prevention of child abuse and neglect.

(2) Every school district shall, within the resources available to it: (a) Participate in the primary prevention program established under RCW 28A.300.160; (b) develop and implement its own child abuse and neglect education and prevention program; or (c) continue with an existing local child abuse and neglect education and prevention program. [1990 c 33 § 238; 1987 c 489 § 6. Formerly RCW 28A.58.255.]

Intent—1987 c 489: See note following RCW 28A.300.150.

28A.230.090 High school graduation requirements or equivalencies—Reevaluation and report by state board of education. (1) The state board of education shall

establish high school graduation requirements or equivalencies for students.

(2) In recognition of the statutory authority of the state board of education to establish and enforce minimum high school graduation requirements, the state board shall periodically reevaluate the graduation requirements and shall report such findings to the legislature in a timely manner as determined by the state board.

(3) Pursuant to any foreign language requirement established by the state board of education or a local school district, or both, for purposes of high school graduation, students who receive instruction in American sign language shall be considered to have satisfied the state or local school district foreign language graduation requirement.

(4) If requested by the student and his or her family, a student who has completed high school courses before attending high school shall be given high school credit which shall be applied to fulfilling high school graduation requirements if:

(a) The course was taken with high school students, if the academic level of the course exceeds the requirements for seventh and eighth grade classes, and the student has successfully passed by completing the same course requirements and examinations as the high school students enrolled in the class; or

(b) The academic level of the course exceeds the requirements for seventh and eighth grade classes and the course would qualify for high school credit, because the course is similar or equivalent to a course offered at a high school in the district as determined by the school district board of directors.

(5) Students who have taken and successfully completed high school courses under the circumstances in subsection (4) of this section shall not be required to take an additional competency examination or perform any other additional assignment to receive credit. Subsection (4) of this section shall also apply to students enrolled in high school on April 11, 1990, who took the courses before attending high school. [1992 c 141 § 402; 1992 c 60 § 1; 1990 1st ex.s. c 9 § 301; 1988 c 172 § 1; 1985 c 384 § 2; 1984 c 278 § 6. Formerly RCW 28A.05.060.]

Reviser's note: This section was amended by 1992 c 60 § 1 and by 1992 c 141 § 402, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings—Part headings—Severability—1992 c 141: See notes following RCW 28A.410.040.

Finding—Severability—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

Severability—1984 c 278: See note following RCW 28A.320.220.

International education program considered social studies offering: RCW 28A.630.320.

28A.230.100 Rules implementing RCW 28A.230.090 to be adopted—Temporary exemptions—Special alterations—Competency testing. The state board of education shall adopt rules pursuant to chapter 34.05 RCW, to implement the course requirements set forth in RCW 28A.230.090. The rules shall include, as the state board deems necessary, granting equivalencies for and temporary exemptions from the course requirements in RCW 28A.230.090 and special alterations of the course require-

ments in RCW 28A.230.090. In developing such rules the state board shall recognize the relevance of vocational and applied courses and allow such courses to fulfill in whole or in part the courses required for graduation in RCW 28A.230.090. The rules may include provisions for competency testing in lieu of such courses required for graduation in RCW 28A.230.090 or demonstration of specific skill proficiency or understanding of concepts through work or experience. [1991 c 116 § 8; 1990 c 33 § 239; 1985 c 384 § 1. Formerly RCW 28A.05.062.]

28A.230.120 High school diplomas—Issuance—Option to receive final transcripts—Notice. (1) School districts shall issue diplomas to students signifying graduation from high school upon the students' satisfactory completion of all local and state graduation requirements. Districts shall grant students the option of receiving a final transcript in addition to the regular diploma.

(2) School districts or schools of attendance shall establish policies and procedures to notify senior students of the transcript option and shall direct students to indicate their decisions in a timely manner. School districts shall make appropriate provisions to assure that students who choose to receive a copy of their final transcript shall receive such transcript after graduation. [1984 c 178 § 2. Formerly RCW 28A.58.108.]

High school transcripts: RCW 28A.305.220.

28A.230.130 Program to help students meet minimum entrance requirements at baccalaureate-granting institutions—Exceptions. (1) All public high schools of the state shall provide a program, directly or in cooperation with a community college or another school district, for students whose educational plans include application for entrance to a baccalaureate-granting institution after being granted a high school diploma. The program shall help these students to meet at least the minimum entrance requirements under RCW 28B.10.050.

(2) The state board of education, upon request from local school districts, may grant temporary exemptions from the requirements to provide the program described in subsection (1) of this section for reasons relating to school district size and the availability of staff authorized to teach subjects which must be provided. [1991 c 116 § 9; 1988 c 172 § 2; 1984 c 278 § 16. Formerly RCW 28A.05.070.]

Effective date—1984 c 278: "Sections 16, 18, and 19 of this act shall take effect July 1, 1986." [1984 c 278 § 23.] For codification of 1984 c 278, see Codification Tables, Volume 0.

Severability—1984 c 278: See note following RCW 28A.185.010.

28A.230.140 United States flag—Procurement, display, exercises—National anthem. The board of directors of every school district shall cause a United States flag being in good condition to be displayed during school hours upon or near every public school plant, except during inclement weather. They shall cause appropriate flag exercises to be held in each classroom at the beginning of the school day, and in every school at the opening of all school assemblies, at which exercises those pupils so desiring shall recite the following salute to the flag: "I pledge allegiance to the flag of the United States of America

and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all". Students not reciting the pledge shall maintain a respectful silence. The salute to the flag or the national anthem shall be rendered immediately preceding interschool events when feasible. [1981 c 130 § 1; 1969 ex.s. c 223 § 28A.02.030. Prior: (i) 1961 c 238 § 1; 1955 c 8 § 1; 1919 c 90 § 4; 1915 c 71 § 1; 1909 c 97 p 286 § 3; 1897 c 118 § 180; RRS § 4777. Formerly RCW 28.02.030. (ii) 1955 c 8 § 2; 1919 c 90 § 5; RRS § 4778. Formerly RCW 28A.02.030, 28.87.180.]

Display of national and state flags: RCW 1.20.015.

28A.230.150 Temperance and Good Citizenship Day—Aids in programming. On January 16th of each year or the preceding Friday when January 16th falls on a nonschool day, there shall be observed within each public school "Temperance and Good Citizenship Day". Annually the state superintendent of public instruction shall duly prepare and publish for circulation among the teachers of the state a program for use on such day embodying topics pertinent thereto and may from year to year designate particular laws for special observance. [1969 ex.s. c 223 § 28A.02.090. Prior: (i) 1923 c 76 § 1; RRS § 4901-1. (ii) 1923 c 76 § 2; RRS § 4901-2. Formerly RCW 28A.02.090, 28.02.090, and 28.02.095.]

28A.230.160 Educational activities in observance of Veterans' Day. During the school week preceding the eleventh day of November of each year, there shall be presented in each common school as defined in RCW 28A.150.020 educational activities suitable to the observance of Veterans' Day.

The responsibility for the preparation and presentation of the activities approximating at least sixty minutes total throughout the week shall be with the principal or head teacher of each school building and such program shall embrace topics tending to instill a loyalty and devotion to the institutions and laws of this state and nation.

The superintendent of public instruction and each educational service district superintendent, by advice and suggestion, shall aid in the preparation of these activities if such aid be solicited. [1990 c 33 § 241; 1985 c 60 § 1; 1977 ex.s. c 120 § 2; 1975 1st ex.s. c 275 § 45; 1970 ex.s. c 15 § 12. Prior: 1969 ex.s. c 283 § 24; 1969 ex.s. c 176 § 101; 1969 ex.s. c 223 § 28A.02.070; prior: 1955 c 20 § 3; prior: (i) 1939 c 21 § 1; 1921 c 56 § 1; RRS § 4899. (ii) 1921 c 56 § 2; RRS § 4900. (iii) 1921 c 56 § 3; RRS § 4901. Formerly RCW 28A.02.070, 28.02.070.]

Severability—1977 ex.s. c 120: See note following RCW 4.28.080.

Severability—1970 ex.s. c 15: "If any provision of this 1970 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1970 ex.s. c 15 § 32.]

Effective date—1970 ex.s. c 15 § 12: "Notwithstanding any other provision of this 1970 amendatory act, the provisions of section 12 hereof shall not take effect until January 1, 1971 and only if at such time or thereafter chapter 223, Laws of 1969 ex. sess. is effective." [1970 ex.s. c 15 § 13.]

The above two annotations apply to 1970 ex.s. c 15. For codification of that act, see Codification Tables, Volume 0.

Severability—1969 ex.s. c 283: See note following RCW 28A.150.050.

(1992 Ed.)

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.230.170 Study of Constitutions compulsory—Rules to implement. The study of the Constitution of the United States and the Constitution of the state of Washington shall be a condition prerequisite to graduation from the public and private high schools of this state. The state board of education acting upon the advice of the superintendent of public instruction shall provide by rule or regulation for the implementation of this section. [1985 c 341 § 1; 1969 ex.s. c 223 § 28A.02.080. Prior: (i) 1925 ex.s. c 134 § 1; RRS § 4898-1. (ii) 1925 ex.s. c 134 § 2; RRS § 4898-2. Formerly RCW 28A.02.080, 28.02.080, and 28.02.081.]

28A.230.180 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. Formerly RCW 28A.58.535.]

28A.230.190 Assessment—Achievement tests. (1) Every school district is encouraged to test pupils in grade two by an assessment device designed or selected by the school district. This test shall be used to help teachers in identifying those pupils in need of assistance in the skills of reading, writing, mathematics, and language arts. The test results are not to be compiled by the superintendent of public instruction, but are only to be used by the local school district.

(2) The superintendent of public instruction shall prepare and conduct, with the assistance of school districts, a standardized achievement test to be given annually to all pupils in grade four. The test shall assess students' skill in reading, mathematics, and language arts and shall focus upon appropriate input variables. Results of such tests shall be compiled by the superintendent of public instruction, who shall make those results available annually to the legislature, to all local school districts and subsequently to parents of those children tested. The results shall allow parents to ascertain the achievement levels and input variables of their children as compared with the other students within the district, the state and, if applicable, the nation.

(3) The superintendent of public instruction shall report annually to the legislature on the achievement levels of students in grade four. [1990 c 101 § 6; 1985 c 403 § 1; 1984 c 278 § 8; 1975-'76 2nd ex.s. c 98 § 1. Formerly RCW 28A.03.360.]

Contingency—Effective date—1985 c 403: "If specific funding for the purposes of this act, referencing this act by bill number, is not provided by the legislature by July 1, 1987, the amendment to RCW 28A.03.360 by section 1 of this act shall be null and void. This act shall be of no effect until such specific funding is provided. If such funding is so provided, this act shall take effect when the legislation providing the funding takes effect." [1985 c 403 § 2.]

Reviser's note: (1) 1985 ex.s. c 6 § 501 provides specific funding for the purposes of this act.

(2) 1985 ex.s. c 6 took effect June 27, 1985.

Severability—1984 c 278: See note following RCW 28A.185.010.

Implementation—Funding required—1984 c 278: See note following RCW 28A.300.110.

Effective date—1975-'76 2nd ex.s. c 98: "This 1976 amendatory act shall take effect on July 1, 1976." [1975-'76 2nd ex.s. c 98 § 3.]

28A.230.195 Test or assessment scores—Curriculum adjustments—Notification to parents. (1) If students' scores on the test or assessments under RCW 28A.230.190, 28A.230.230, and 28A.230.240 indicate that students need help in identified areas, the school district shall adjust the curriculum in the identified areas.

(2) Each school district shall notify the parents of each student of their child's performance on the test and assessments conducted under this chapter. [1992 c 141 § 401.]

Findings—Part headings—Severability—1992 c 141: See notes following RCW 28A.410.040.

28A.230.210 Washington life skills test—Development and review—Use by school districts. (1) The superintendent of public instruction shall prepare, in consultation with and with the assistance of school districts, a model test to assess students' ability to perform various functions common to everyday life. This model test shall be called the "Washington life skills test" and shall be made available to school districts for use at the district's option. The test shall include questions designed to determine students' academic growth and proficiency in skills generally thought to be useful in adult life, including but not limited to English, vocabulary, communications, and mathematical skills as such skills relate to career, consumer, economic, health, and other issues important to individuals becoming productive citizens. The superintendent of public instruction shall develop and implement a process to review periodically the contents of the test and make changes as may be appropriate or necessary.

(2) School districts may establish their own policies and procedures governing the use of the test. Districts may use the test as a requirement for graduation in conjunction with other state and local graduation requirements or for other purposes as districts may determine. [1984 c 278 § 11. Formerly RCW 28A.03.370.]

Severability—1984 c 278: See note following RCW 28A.185.010.

Implementation—Funding required—1984 c 278: See note following RCW 28A.300.110.

28A.230.220 High school and beyond assessment program. The Washington state high school and beyond assessment program is hereby established to (1) provide information to guide students toward improved self-understanding, maximize use of their talents, and increase their awareness of the options available to them, all of which are essential to making informed decisions about choices in high school and beyond; and (2) provide information that will assist education policy makers, at all levels, determine the achievement levels of students, evaluate existing programs and services for students, identify appropriate new programs or services, and assess the effects of educational policies over time. [1990 c 101 § 1.]

28A.230.230 Annual assessment of eighth grade students. The superintendent of public instruction shall prepare and conduct, with the assistance of school districts, an annual assessment of all students in the eighth grade. The purposes of the assessment are to assist students, parents, and teachers in the planning and selection of appropriate high school courses for students and to provide information about students' current academic proficiencies both in the basic skills of reading, mathematics, and language, and in the reasoning and thinking skills essential for successful entry into those courses required for high school graduation. The assessment shall also include the collection of information about students' interests and plans for high school and beyond and may include the collection of other related student and school information. The superintendent of public instruction shall make the results of the assessment available to all school districts which shall in turn make them available to students, parents, and teachers in a timely fashion and in a manner consistent with the purposes of RCW 28A.230.220 through 28A.230.260. [1990 c 101 § 2.]

28A.230.240 Annual assessment of eleventh grade students. The superintendent of public instruction shall prepare and conduct, with the assistance of local school districts, an annual assessment of all students in the eleventh grade beginning with the 1991-92 school year. The purposes of the assessment are to provide achievement and guidance information to students, parents, and teachers that will assist in reviewing students' current performance and planning effectively for their initial years beyond high school. The achievement measures shall assess students' strengths and deficiencies in the broad content areas common to the high school curriculum and those thinking and reasoning skills essential for completing high school graduation requirements and for success beyond high school. The assessment shall also collect information about students' career interests and plans and other related student and school information including students' high school course selection patterns, course credits, and grades. The superintendent of public instruction shall make the results of the assessment available to all local school districts which shall in turn make them available to students, parents, and teachers in a timely fashion and in a manner consistent with the purposes of RCW 28A.230.220 through 28A.230.260. No grade ten students shall be tested in the fall of 1990 and the funds already appropriated for such testing shall be used for the planning and preliminary development work necessary to implement RCW 28A.230.220 through 28A.230.260. [1990 c 101 § 3.]

28A.230.250 Coordination of procedures and content of assessments. The superintendent of public instruction shall coordinate both the procedures and the content of the eighth and eleventh grade assessments to maximize the value of the information provided to students as they progress from eighth grade through high school and to teachers and parents about students' talents, interests, and academic needs or deficiencies so that appropriate programs can be provided to enhance the likelihood of students' success both in terms of high school graduation and beyond high school. [1990 c 101 § 4.]

28A.230.260 Annual report to the legislature. The superintendent of public instruction shall report annually to the legislature on the results of the achievement levels of students in grades eight and eleven. [1990 c 101 § 5.]

Chapter 28A.235 FOOD SERVICES

Sections

28A.235.010	Superintendent of public instruction authorized to receive and disburse federal funds.
28A.235.020	Payment of costs—Federal food services revolving fund—Disbursements.
28A.235.030	Rules.
28A.235.040	Acquisition authorized.
28A.235.050	Contracts for—Other law applicable to.
28A.235.060	Advancement of costs from revolving fund moneys—Reimbursement by school district to include transaction expense.
28A.235.070	Revolving fund created.
28A.235.080	Revolving fund—Administration of fund—Use—School district requisition as prerequisite.
28A.235.090	Revolving fund—Depositories for fund, bond or security for—Manner of payments from fund.
28A.235.100	Rules and regulations.
28A.235.110	Suspension of laws, rules, inconsistent herewith.
28A.235.120	Lunchrooms—Establishment and operation—Personnel for—Agreements for.
28A.235.130	Milk for children at school expense.
28A.235.140	School breakfast programs.

Food donation and distribution—Liability: Chapter 69.80 RCW.

28A.235.010 Superintendent of public instruction authorized to receive and disburse federal funds. The superintendent of public instruction is hereby authorized to receive and disburse federal funds made available by acts of congress for the assistance of private nonprofit organizations in providing food services to children and adults according to the provisions of 20 U.S.C. Sec. 1751 et seq., the national school lunch act as amended, and 20 U.S.C. Sec. 1771, et seq., the child nutrition act of 1966, as amended. [1987 c 193 § 1. Formerly RCW 28A.29.010.]

28A.235.020 Payment of costs—Federal food services revolving fund—Disbursements. All reasonably ascertainable costs of performing the duties assumed and performed under RCW 28A.235.010 through 28A.235.030 and 28A.235.140 by either the superintendent of public instruction or another state or local governmental entity in support of the superintendent of public instruction's duties under RCW 28A.235.010 through 28A.235.030 and 28A.235.140 shall be paid exclusively with federal funds and, if any, private gifts and grants. The federal food services revolving fund is hereby established in the custody of the state treasurer. The office of the superintendent of public instruction shall deposit in the fund federal funds received under RCW 28A.235.010, recoveries of such funds, and gifts or grants made to the revolving fund. Disbursements from the fund shall be on authorization of the superintendent of public instruction or the superintendent's designee. The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements. The superintendent of public instruction is authorized to expend from the federal food services

revolving fund such funds as are necessary to implement RCW 28A.235.010 through 28A.235.030 and 28A.235.140. [1990 c 33 § 242; 1987 c 193 § 2. Formerly RCW 28A.29.020.]

28A.235.030 Rules. The superintendent shall have the power to promulgate such rules in accordance with chapter 34.05 RCW as are necessary to implement this chapter. [1987 c 193 § 3. Formerly RCW 28A.29.030.]

28A.235.040 Acquisition authorized. Notwithstanding any other provision of law or chapter 39.32 RCW, the state superintendent of public instruction is hereby authorized to purchase, or otherwise acquire from the government of the United States or any property or commodity disposal agency thereof, surplus or donated food commodities for the use by any school district for their hot lunch program. [1969 ex.s. c 223 § 28A.30.010. Prior: 1967 ex.s. c 92 § 1. Formerly RCW 28A.30.010, 28.30.010.]

28A.235.050 Contracts for—Other law applicable to. The state superintendent of public instruction is hereby authorized to enter into any contract with the United States of America, or any agency thereof, for the purchase of any surplus or donated food commodities, without regard to the provisions of any other law requiring the advertising, giving notice, inviting or receiving bids, or which may require the delivery of purchases before payment. [1969 ex.s. c 223 § 28A.30.020. Prior: 1967 ex.s. c 92 § 7. Formerly RCW 28A.30.020, 28.30.020.]

28A.235.060 Advancement of costs from revolving fund moneys—Reimbursement by school district to include transaction expense. In purchasing or otherwise acquiring surplus or donated commodities on the requisition of a school district the superintendent may advance the purchase price and other cost of acquisition thereof from the surplus and donated food commodities revolving fund and the superintendent shall in due course bill the proper school district for the amount paid by him or her for the commodities plus a reasonable amount to cover the expenses incurred by the superintendent's office in connection with the transaction. All payments received for surplus or donated commodities from school districts shall be deposited by the superintendent in the surplus and donated food commodities revolving fund. [1990 c 33 § 243; 1969 ex.s. c 223 § 28A.30.030. Prior: 1967 ex.s. c 92 § 4. Formerly RCW 28A.30.030, 28.30.030.]

28A.235.070 Revolving fund created. There is created in the office of the state superintendent of public instruction a revolving fund to be designated the surplus and donated food commodities revolving fund. [1985 c 341 § 10; 1979 ex.s. c 20 § 1; 1969 ex.s. c 223 § 28A.30.040. Prior: 1967 ex.s. c 92 § 2. Formerly RCW 28A.30.040, 28.30.040.]

28A.235.080 Revolving fund—Administration of fund—Use—School district requisition as prerequisite. The surplus and donated food commodities revolving fund

shall be administered by the state superintendent of public instruction and be used solely for the purchase or other acquisition, including transportation, storage and other cost, of surplus or donable food commodities from the federal government. The superintendent may purchase or otherwise acquire such commodities only after requisition by a school district requesting such commodities. [1969 ex.s. c 223 § 28A.30.050. Prior: 1967 ex.s. c 92 § 3. Formerly RCW 28A.30.050, 28.30.050.]

28A.235.090 Revolving fund—Depositories for fund, bond or security for—Manner of payments from fund. The surplus and donated food commodities revolving fund shall be deposited by the superintendent in such banks as he or she may select, but any such depository shall furnish a surety bond executed by a surety company or companies authorized to do business in the state of Washington, or collateral eligible as security for deposit of state funds, in at least the full amount of the deposit in each depository bank. Moneys shall be paid from the surplus and donated food commodities revolving fund by voucher and check in such form and in such manner as shall be prescribed by the superintendent. [1990 c 33 § 244; 1969 ex.s. c 223 § 28A.30.060. Prior: 1967 ex.s. c 92 § 5. Formerly RCW 28A.30.060, 28.30.060.]

28A.235.100 Rules and regulations. The superintendent of public instruction shall have power to promulgate rules and regulations as may be necessary to effectuate the purposes of RCW 28A.235.040 through 28A.235.110. [1990 c 33 § 245; 1969 ex.s. c 223 § 28A.30.070. Prior: 1967 ex.s. c 92 § 6. Formerly RCW 28A.30.070, 28.30.070.]

28A.235.110 Suspension of laws, rules, inconsistent herewith. Any provision of law, or any resolution, rule or regulation which is inconsistent with the provisions of RCW 28A.235.040 through 28A.235.110 is suspended to the extent such provision is inconsistent herewith. [1990 c 33 § 246; 1969 ex.s. c 223 § 28A.30.080. Prior: 1967 ex.s. c 92 § 8. Formerly RCW 28A.30.080, 28.30.080.]

28A.235.120 Lunchrooms—Establishment and operation—Personnel for—Agreements for. The directors of any school district may establish, equip and operate lunchrooms in school buildings for pupils, certificated and noncertificated employees, and for school or employee functions: PROVIDED, That the expenditures for food supplies shall not exceed the estimated revenues from the sale of lunches, federal lunch aid, Indian education fund lunch aid, or other anticipated revenue, including donations, to be received for that purpose: PROVIDED FURTHER, That the directors of any school district may provide for the use of kitchens and lunchrooms or other facilities in school buildings to furnish meals to elderly persons at cost as provided in RCW 28A.623.020: PROVIDED, FURTHER, That the directors of any school district may provide for the use of kitchens and lunchrooms or other facilities in school buildings to furnish meals at cost as provided in RCW 28A.623.030 to children who are participating in educational or training or care programs or activities conducted by private, nonprofit organizations and entities and to students

who are attending private elementary and secondary schools. Operation for the purposes of this section shall include the employment and discharge for sufficient cause of personnel necessary for preparation of food or supervision of students during lunch periods and fixing their compensation, payable from the district general fund, or entering into agreement with a private agency for the establishment, management and/or operation of a food service program or any part thereof. [1990 c 33 § 247; 1979 ex.s. c 140 § 3; 1979 c 58 § 1; 1973 c 107 § 2; 1969 ex.s. c 223 § 28A.58.136. Prior: (i) 1947 c 31 § 1; 1943 c 51 § 1; 1939 c 160 § 1; Rem. Supp. 1947 § 4706-1. Formerly RCW 28A.58.136, 28.58.260. (ii) 1943 c 51 § 2; Rem. Supp. 1943 § 4706-2. Formerly RCW 28.58.270.]

Severability—1979 ex.s. c 140: See note following RCW 28A.225.200.

Severability—1979 c 58: See note following RCW 28A.623.030.
Nonprofit meal program for elderly—Purpose: RCW 28A.623.010.

28A.235.130 Milk for children at school expense. The board of directors of any school district may cause to be furnished free of charge, in a suitable receptacle on each and every school day to such children in attendance desiring or in need of the same, not less than one-half pint of milk. The cost of supplying such milk shall be paid for in the same manner as other items of expense incurred in the conduct and operation of said school, except that available federal or state funds may be used therefor. [1969 ex.s. c 223 § 28A.31.020. Prior: 1935 c 15 § 1; 1923 c 152 § 1; 1921 c 190 § 1; RRS § 4806. Formerly RCW 28A.31.020, 28.31.020.]

Food services—Use of federal funds: Chapter 28A.235 RCW.

28A.235.140 School breakfast programs. (1) For the purposes of this section:

(a) "Free or reduced-price lunches" means lunches served by a school district that qualify for federal reimbursement as free or reduced-price lunches under the national school lunch program.

(b) "School breakfast program" means a program meeting federal requirements defined in 42 U.S.C. Sec. 1773.

(c) "Severe-need school" means a school that qualifies for a severe-need school reimbursement rate from federal funds for school breakfasts served to children from low-income families.

(2) School districts shall be required to develop and implement plans for a school breakfast program in severe-need schools, pursuant to the schedule in this section. For the second year prior to the implementation of the district's school breakfast program, and for each subsequent school year, each school district shall submit data enabling the superintendent of public instruction to determine which schools within the district will qualify as severe-need schools. In developing its plan, each school district shall consult with an advisory committee including school staff and community members appointed by the board of directors of the district.

(3) Using district-wide data on school lunch participation during the 1988-89 school year, the superintendent of public instruction shall adopt a schedule for implementation

of school breakfast programs in severe-need schools as follows:

(a) School districts where at least forty percent of lunches served to students are free or reduced-price lunches shall submit a plan for implementation of a school breakfast program in severe-need schools to the superintendent of public instruction no later than July 1, 1990. Each such district shall implement a school breakfast program in all severe-need schools no later than the second day of school in the 1990-91 school year and in each school year thereafter.

(b) School districts where at least twenty-five but less than forty percent of lunches served to students are free or reduced-price lunches shall submit a plan for implementation of a school breakfast program in severe-need schools to the superintendent of public instruction no later than July 1, 1991. Each such district shall implement a school breakfast program in all severe-need schools no later than the second day of school in the 1991-92 school year and in each school year thereafter.

(c) School districts where less than twenty-five percent of lunches served to students are free or reduced-price lunches shall submit a plan for implementation of a school breakfast program in severe-need schools to the superintendent of public instruction no later than July 1, 1992. Each such district shall implement a school breakfast program in all severe-need schools no later than the second day of school in the 1992-93 school year and in each school year thereafter.

(d) School districts that did not offer a school lunch program in the 1988-89 school year are encouraged to implement such a program and to provide a school breakfast program in all severe-need schools when eligible.

(4) The requirements in this section shall lapse if the federal reimbursement rate for breakfasts served in severe-need schools is eliminated.

(5) Students who do not meet family-income criteria for free breakfasts shall be eligible to participate in the school breakfast programs established under this section, and school districts may charge for the breakfasts served to these students. School breakfast programs established under this section shall be supported entirely by federal funds and commodities, charges to students, and other local resources available for this purpose, and shall not create or imply any state funding obligation for these costs. The legislature does not intend to include these programs within the state's obligation for basic education funding under Article IX of the Constitution. [1989 c 239 § 2. Formerly RCW 28A.29.040.]

Study—1989 c 239: "The superintendent of public instruction shall conduct a study of the costs and feasibility of expanding the school breakfast program to include schools where more than twenty-five but less than forty percent of lunches served are free or reduced-price lunches. The study shall consider the total cost of the program, including but not limited to food costs, staff salaries and benefits, and additional pupil transportation costs. The superintendent of public instruction shall submit to the legislature prior to January 15, 1992, a report on the results of this study, including recommendations on whether to expand the school breakfast program to include these schools." [1989 c 239 § 3.]

Chapter 28A.240

SCHOOL-BASED MANAGEMENT

Sections

28A.240.010	Pilot projects in school-based management— Superintendent's duties.
28A.240.020	Pilot projects in school-based management— Legislative findings and intent.
28A.240.030	Pilot projects in school-based management—School site councils required—School improvement plan.

28A.240.010 Pilot projects in school-based management—Superintendent's duties. To carry out the school-based management pilot projects of RCW 28A.240.030, the superintendent of public instruction shall:

(1) Grant funds to local school districts that apply for funding on a grant proposal or other basis, to establish pilot projects in school-based management: PROVIDED, That in at least one project every building in a district shall use school-based management;

(2) Develop guidelines, in consultation with school districts, for school-based management programs;

(3) Assist districts and schools, upon request, to design, implement, or evaluate school improvement programs authorized by RCW 28A.240.030;

(4) Submit a report to the legislature not later than two and one-half years after June 27, 1985, on the results of the pilot projects, any other similar programs being used in local districts, and any recommendations;

(5) These school-based management pilot projects are not part of the program of basic education which the state must fund under Article IX of the state Constitution. [1990 c 33 § 248; 1985 c 422 § 2. Formerly RCW 28A.03.423.]

Contingency—Effective date—1985 c 422: See note following RCW 28A.240.020.

28A.240.020 Pilot projects in school-based management—Legislative findings and intent. (1) The legislature believes that teachers, principals and other school administrators, parents, students, school district personnel, school board members, and members of the community, utilizing the results of continuing research on effective education, can best identify the educational goals, needs, and conditions of the community and develop and implement a basic education program that will provide excellence.

(2) To meet the goals set forth in this section, it is the intent and purpose of the legislature to encourage improvement of Washington's public school system by returning more control over the operation of local education programs to local districts through a program of pilot projects in school-based management. [1985 c 422 § 1. Formerly RCW 28A.58.081.]

Contingency—Effective date—1985 c 422: "If specific funding for the purposes of this act, referencing this act by bill number, is not provided by the legislature by July 1, 1987, this act shall be null and void. This act shall be of no effect until such specific funding is provided. If such funding is so provided, this act shall take effect when the legislation providing the funding takes effect." [1985 c 422 § 5.]

Reviser's note: (1) 1985 ex.s. c 6 § 501 provides specific funding for the purposes of this act.

(2) 1985 ex.s. c 6 took effect June 27, 1985.

28A.240.030 Pilot projects in school-based management—School site councils required—School improvement plan. (1) Each pilot project school that participates in the school-based management program authorized by RCW 28A.240.010 shall be required to establish a school site council. The council shall be minimally composed of the school principal, teachers, other school personnel, parents of pupils attending the school, nonparent community members from the school's service area, and, in secondary schools, pupils. Existing school-wide advisory groups or school support groups may be used as the school site council if such groups conform to the general membership requirements of this section.

(2) The exact size of the council and the term and method of selection and replacement of council members shall be specified in the school improvement plan developed pursuant to subsection (3) of this section.

(3) Each school site council shall be required to develop an annual school improvement plan containing improvement objectives as established by the council under guidelines developed by the superintendent of public instruction.

(4) The board of directors of each school district in which a school is participating in the school-based management program authorized by RCW 28A.240.010 shall review and approve or disapprove planning applications and school improvement plans consistent with, but not limited to, rules and regulations adopted by the superintendent of public instruction. No school improvement plan may be approved unless it was developed and recommended by a school site council. The board of directors shall notify the school site council in writing of specific reasons for not approving the school improvement plan. Modifications to the plan shall be developed and recommended by the council and approved or disapproved by the board of directors. [1990 c 33 § 249; 1985 c 422 § 3. Formerly RCW 28A.58.082.]

Contingency—Effective date—1985 c 422: See note following RCW 28A.240.020.

Chapter 28A.300

SUPERINTENDENT OF PUBLIC INSTRUCTION

Sections

28A.300.010	Election—Term of office.
28A.300.020	Assistant superintendents, deputy superintendent, assistants—Terms for exempt personnel.
28A.300.030	Assistance of educational service district boards and superintendents—Scope.
28A.300.040	Powers and duties generally.
28A.300.0451	Reimbursement for substitute if employee serves state board or superintendent.
28A.300.050	Assistance to state board for activities involving professional educator excellence.
28A.300.060	Studies and adoption of classifications for school district budgets—Publication.
28A.300.070	Receipt of federal funds for school purposes—Superintendent of public instruction to administer.
28A.300.080	Vocational agriculture education—Intent.
28A.300.090	Vocational agriculture education—Service area established—Duties.
28A.300.100	Vocational agriculture education—Superintendent to adopt rules.
28A.300.110	Model curriculum programs or curriculum guidelines—Development—Review.
28A.300.115	Holocaust instruction—Preparation and availability of instructional materials.

28A.300.120	Administrative hearing—Contract to conduct authorized—Final decision.
28A.300.130	Educational information—Superintendent's duties.
28A.300.140	State clearinghouse for educational information revolving fund.
28A.300.150	Information on child abuse and neglect prevention curriculum—Superintendent's duties.
28A.300.160	Development of coordinated primary prevention program for child abuse and neglect—Office as lead agency.
28A.300.164	Energy information program.
28A.300.170	State general fund—Estimates for state support to public schools, from.
28A.300.180	Minority teacher recruitment program—Grants.
28A.300.190	Coordination of video telecommunications programming in schools.
28A.300.200	Teacher exchange programs.
28A.300.210	Energy conservation—Report to legislature.
28A.300.220	Cooperation with work force training and education coordinating board.
28A.300.230	Findings—Integration of vocational and academic education.
28A.300.235	Development of model curriculum integrating vocational and academic education.
28A.300.240	International student exchange.
28A.300.250	Participation in federal nutrition programs—Superintendent's duties.
28A.300.260	Teachers recruiting future teachers program.
	<i>Council for the prevention of child abuse and neglect, superintendent or designee as member: RCW 43.121.020.</i>
	<i>Driving instructor's licensing, adoption by superintendent of rules: RCW 46.82.320.</i>
	<i>State investment board, appointment of member by superintendent: RCW 43.33A.020.</i>
	<i>State occupational forecast—other agencies consulted prior to: RCW 50.38.030.</i>

28A.300.010 Election—Term of office. A superintendent of public instruction shall be elected by the qualified electors of the state, on the first Tuesday after the first Monday in November of the year in which state officers are elected, and shall hold his or her office for the term of four years, and until his or her successor is elected and qualified. [1990 c 33 § 250; 1969 ex.s. c 223 § 28A.03.010. Prior: 1909 c 97 p 231 § 1; RRS § 4521; prior: 1897 c 118 § 20; 1891 c 127 § 1; 1890 p 348 § 3; Code 1881 § 3154; 1873 p 419 § 1; 1861 p 55 § 1. Formerly RCW 28A.03.010, 28.03.010, 43.11.010.]

28A.300.020 Assistant superintendents, deputy superintendent, assistants—Terms for exempt personnel. The superintendent of public instruction may appoint assistant superintendents of public instruction, a deputy superintendent of public instruction, and may employ such other assistants and clerical help as are necessary to carry out the duties of the superintendent and the state board of education. The assistant superintendents, deputy superintendent, and such other officers and employees as are exempted from the provisions of chapter 41.06 RCW, shall serve at the pleasure of the superintendent. [1969 ex.s. c 223 § 28A.03.020. Prior: 1967 c 158 § 3; 1909 c 97 p 234 § 4; RRS § 4524; prior: 1905 c 56 § 1; 1903 c 104 § 10; 1897 c 118 § 23; 1890 p 351 § 5. Formerly RCW 28A.03.020, 28.03.020, 43.11.020.]

28A.300.030 Assistance of educational service district boards and superintendents—Scope. The superin-

tendent of public instruction, by rule or regulation, may require the assistance of educational service district boards and/or superintendents in the performance of any duty, authority, or power imposed upon or granted to the superintendent of public instruction by law or by the Constitution of the state of Washington, upon such terms and conditions as the superintendent of public instruction shall establish. Such authority to assist the superintendent of public instruction shall be limited to the service function of information collection and dissemination and the attestation to the accuracy and completeness of submitted information. [1975 1st ex.s. c 275 § 46; 1971 ex.s. c 282 § 29. Formerly RCW 28A.03.028.]

Severability—1971 ex.s. c 282: See note following RCW 28A.310.010.

28A.300.040 Powers and duties generally. In addition to any other powers and duties as provided by law, the powers and duties of the superintendent of public instruction shall be:

(1) To have supervision over all matters pertaining to the public schools of the state.

(2) To report to the governor and the legislature such information and data as may be required for the management and improvement of the schools.

(3) To prepare and have printed such forms, registers, courses of study, rules and regulations for the government of the common schools, questions prepared for the examination of persons as provided for in *RCW 28A.305.130(9), and such other material and books as may be necessary for the discharge of the duties of teachers and officials charged with the administration of the laws relating to the common schools, and to distribute the same to educational service district superintendents.

(4) To travel, without neglecting his or her other official duties as superintendent of public instruction, for the purpose of attending educational meetings or conventions, of visiting schools, of consulting educational service district superintendents or other school officials.

(5) To prepare and from time to time to revise a manual of the Washington state common school code, copies of which shall be provided in such numbers as determined by the superintendent of public instruction at no cost to those public agencies within the common school system and which shall be sold at approximate actual cost of publication and distribution per volume to all other public and nonpublic agencies or individuals, said manual to contain Titles 28A and 28C RCW, rules and regulations related to the common schools, and such other matter as the state superintendent or the state board of education shall determine. Proceeds of the sale of such code shall be transmitted to the public printer who shall credit the state superintendent's account within the state printing plant revolving fund by a like amount.

(6) To act as ex officio member and the chief executive officer of the state board of education.

(7) To file all papers, reports and public documents transmitted to the superintendent by the school officials of the several counties or districts of the state, each year separately. Copies of all papers filed in the superintendent's office, and the superintendent's official acts, may, or upon request, shall be certified by the superintendent and attested

by the superintendent's official seal, and when so certified shall be evidence of the papers or acts so certified to.

(8) To require annually, on or before the 15th day of August, of the president, manager, or principal of every educational institution in this state, a report as required by the superintendent of public instruction; and it is the duty of every president, manager or principal, to complete and return such forms within such time as the superintendent of public instruction shall direct.

(9) To keep in the superintendent's office a record of all teachers receiving certificates to teach in the common schools of this state.

(10) To issue certificates as provided by law.

(11) To keep in the superintendent's office at the capital of the state, all books and papers pertaining to the business of the superintendent's office, and to keep and preserve in the superintendent's office a complete record of statistics, as well as a record of the meetings of the state board of education.

(12) With the assistance of the office of the attorney general, to decide all points of law which may be submitted to the superintendent in writing by any educational service district superintendent, or that may be submitted to the superintendent by any other person, upon appeal from the decision of any educational service district superintendent; and the superintendent shall publish his or her rulings and decisions from time to time for the information of school officials and teachers; and the superintendent's decision shall be final unless set aside by a court of competent jurisdiction.

(13) To administer oaths and affirmations in the discharge of the superintendent's official duties.

(14) To deliver to his or her successor, at the expiration of the superintendent's term of office, all records, books, maps, documents and papers of whatever kind belonging to the superintendent's office or which may have been received by the superintendent's for the use of the superintendent's office.

(15) To administer family services and programs to promote the state's policy as provided in RCW 74.14A.025.

(16) To perform such other duties as may be required by law. [1992 c 198 § 6; 1991 c 116 § 2; 1990 c 33 § 251; 1982 c 160 § 2; 1981 c 249 § 1; 1977 c 75 § 17; 1975 1st ex.s. c 275 § 47; 1971 ex.s. c 100 § 1; 1969 ex.s. c 176 § 102; 1969 ex.s. c 223 § 28A.03.030. Prior: 1967 c 158 § 4; 1909 c 97 p 231 § 3; RRS § 4523; prior: 1907 c 240 § 1; 1903 c 104 § 9; 1901 c 177 § 5; 1901 c 41 § 1; 1899 c 142 § 4; 1897 c 118 § 22; 1891 c 127 §§ 1, 2; 1890 pp 348-351 §§ 3, 4; Code 1881 §§ 3155-3160; 1873 p 419 §§ 2-6; 1861 p 55 §§ 2, 3, 4. Formerly RCW 28A.03.030, 28.03.030, 43.11.030.]

***Reviser's note:** Subsection (9) of RCW 28A.305.130 was deleted by the 1991 c 116 amendments to RCW 28A.305.130.

Severability—Effective date—1992 c 198: See RCW 70.190.910 and 70.190.920.

Severability—1982 c 160: See note following RCW 28A.305.100.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

Studies—1969 ex.s. c 283: "The superintendent of public instruction is directed to develop, prepare and make available information as follows:

(1) A budgetary study of the fiscal impact which would result from payment to substitute teachers, who are on a continuing basis of twelve or more days within any calendar month, at a rate of pay commensurate with

their training and experience and at a per diem salary in proportion to the salary for which that teacher would be eligible as a full time teacher;

(2) A study showing the percentage of high school graduates who go on to an institution of higher education, including community colleges, the distribution of such students, and the percentage thereof which continue in higher education through the various grades or years thereof; and

(3) A study of the fiscal impact of establishing one hundred and eighty days as the base salary period for all contracts with certificated employees." [1969 ex.s. c 283 § 8.]

Severability—1969 ex.s. c 283: See note following RCW 28A.150.050.

28A.300.0451 Reimbursement for substitute if employee serves state board or superintendent. See RCW 28A.160.220.

28A.300.050 Assistance to state board for activities involving professional educator excellence. The superintendent of public instruction shall provide technical assistance to the state board of education in the conduct of the activities described in *sections 202 through 232 of this act. [1990 c 33 § 252; 1987 c 525 § 227. Formerly RCW 28A.03.375.]

***Reviser's note:** In addition to vetoed and temporary uncodified sections, "sections 202 through 232 of this act" [1987 c 525] includes the enactment of RCW 28A.04.122, 28A.70.010, 28A.04.167, 28A.70.400 through 28A.70.408, 28A.70.040, 28A.04.170, 28A.04.172, 28A.70.042, 28A.04.174, 28A.04.176, 28A.70.900, 28A.04.178, and 28A.03.375.

Intent—Short title—1987 c 525 §§ 202-233: See notes following RCW 28A.410.020.

Severability—1987 c 525: See note following RCW 28A.630.100.

28A.300.060 Studies and adoption of classifications for school district budgets—Publication. The superintendent of public instruction and the state auditor jointly, and in cooperation with the senate and house committees on education, shall conduct appropriate studies and adopt classifications or revised classifications under RCW 28A.505.100, defining what expenditures shall be charged to each budget class including administration. The studies and classifications shall be published in the form of a manual or revised manual, suitable for use by the governing bodies of school districts, by the superintendent of public instruction, and by the legislature. [1991 c 116 § 3; 1990 c 33 § 253; 1975-'76 2nd ex.s. c 118 § 23; 1975 1st ex.s. c 5 § 1. Formerly RCW 28A.03.350.]

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

28A.300.070 Receipt of federal funds for school purposes—Superintendent of public instruction to administer. The state of Washington and/or any school district is hereby authorized to receive federal funds made or hereafter made available by acts of congress for the assistance of school districts in providing physical facilities and/or maintenance and operation of schools, or for any other educational purpose, according to provisions of such acts, and the state superintendent of public instruction shall represent the state in the receipt and administration of such funds. [1969 ex.s. c 223 § 28A.02.100. Prior: 1943 c 220 § 4; Rem. Supp. 1943 § 5109-4. Formerly RCW 28A.02.100, 28.02.100.]

28A.300.080 Vocational agriculture education—

Intent. The legislature recognizes that agriculture is the most basic and singularly important industry in the state, that agriculture is of central importance to the welfare and economic stability of the state, and that the maintenance of this vital industry requires a continued source of trained and qualified individuals who qualify for employment in agriculture and agribusiness. The legislature declares that it is within the best interests of the people and state of Washington that a comprehensive vocational education program in agriculture be maintained in the state's secondary school system. [1983 1st ex.s. c 34 § 1. Formerly RCW 28A.03.415.]

28A.300.090 Vocational agriculture education—

Service area established—Duties. (1) A vocational agriculture education service area within the office of the superintendent of public instruction shall be established. Adequate staffing of individuals trained or experienced in the field of vocational agriculture shall be provided for the vocational agriculture education service area for coordination of the state program and to provide assistance to local school districts for the coordination of the activities of student agricultural organizations and associations.

(2) The vocational agriculture education service area shall:

(a) Assess needs in vocational agriculture education, assist local school districts in establishing vocational agriculture programs, review local school district applications for approval of vocational agriculture programs, evaluate existing programs, plan research and studies for the improvement of curriculum materials for specialty areas of vocational agriculture. Standards and criteria developed under this subsection shall satisfy the mandates of federally-assisted vocational education;

(b) Develop in-service programs for teachers and administrators of vocational agriculture, review application for vocational agriculture teacher certification, and assist in teacher recruitment and placement in vocational agriculture programs;

(c) Serve as a liaison with the Future Farmers of America, representatives of business, industry, and appropriate public agencies, and institutions of higher education in order to disseminate information, promote improvement of vocational agriculture programs, and assist in the development of adult and continuing education programs in vocational agriculture; and

(d) Establish an advisory task force committee of agriculturists, who represent the diverse areas of the agricultural industry in Washington, which shall make annual recommendations including, but not limited to, the development of curriculum, staffing, strategies for the purpose of establishing a source of trained and qualified individuals in agriculture, and strategies for articulating the state program in vocational agriculture education, including youth leadership throughout the state school system. [1983 1st ex.s. c 34 § 2. Formerly RCW 28A.03.417.]

28A.300.100 Vocational agriculture education—Superintendent to adopt rules. The superintendent of public instruction, pursuant to chapter 34.05 RCW, shall

adopt such rules as are necessary to carry out the provisions of RCW 28A.300.090. [1990 c 33 § 254; 1983 1st ex.s. c 34 § 3. Formerly RCW 28A.03.419.]

28A.300.110 Model curriculum programs or curriculum guidelines—Development—Review. The office of the superintendent of public instruction, in consultation with the state board of education, shall prepare model curriculum programs and/or curriculum guidelines in three subject areas each year. These model curriculum programs or curriculum guidelines shall span all grade levels and shall include statements of expected learning outcomes, content, integration with other subject areas including guidelines for the application of vocational and applied courses to fulfill in whole or in part the courses required for graduation under RCW 28A.230.090, recommended instructional strategies, and suggested resources.

Certificated employees with expertise in the subject area under consideration shall be chosen by the superintendent of public instruction from each educational service district, from a list of persons suggested by their peers, to work with the staff of the superintendent of public instruction to prepare each model curriculum program or curriculum guidelines. Each participant shall be paid his or her regular salary by his or her district, and travel and per diem expenses by the superintendent of public instruction. The superintendent of public instruction shall make selections of additional experts in the subject area under consideration as are needed to provide technical assistance and to review and comment upon the model curriculum programs and/or curriculum guidelines before publication and shall be paid travel and per diem expenses by the superintendent of public instruction as necessary. The model curriculum programs and curriculum guidelines shall be made available to all districts. Participants developing model curriculum programs and/or curriculum guidelines may be used by school districts to provide training or technical assistance or both. After completion of the original development of model curriculum programs or curriculum guidelines, the office of the superintendent of public instruction shall schedule, at least every five years, a regular review and updating of programs and guidelines in each subject matter area. [1990 c 33 § 255; 1987 1st ex.s. c 2 § 208; 1987 c 197 § 1; 1984 c 278 § 5. Formerly RCW 28A.03.425.]

Intent—Severability—Effective date—1987 1st ex.s. c 2: See notes following RCW 84.52.0531.

Implementation—Funding required—1984 c 278: "Implementation of sections 5, 11, and 21 of this act and the amendment to RCW 28A.03.360 by section 8 of this act are each subject to funds being appropriated or available for such purpose or purposes." [1984 c 278 § 22.] Sections 5, 11, and 21 of this act [1984 c 278] were codified as RCW 28A.03.425, 28A.03.370, and 28A.03.380, respectively.

Severability—1984 c 278: See note following RCW 28A.185.010.

28A.300.115 Holocaust instruction—Preparation and availability of instructional materials. (1) Every public high school is encouraged to include in its curriculum instruction on the events of the period in modern world history known as the Holocaust, during which six million Jews and millions of non-Jews were exterminated. The instruction may also include other examples from both ancient and modern history where subcultures or large

human populations have been eradicated by the acts of humankind. The studying of this material is a reaffirmation of the commitment of free peoples never again to permit such occurrences.

(2) The superintendent of public instruction may prepare and make available to all school districts instructional materials for use as guidelines for instruction under this section. [1992 c 24 § 1.]

28A.300.120 Administrative hearing—Contract to conduct authorized—Final decision. Whenever a statute or rule provides for a formal administrative hearing before the superintendent of public instruction under chapter 34.05 RCW, the superintendent of public instruction may contract with the office of administrative hearings to conduct the hearing under chapter 34.12 RCW and may delegate to a designee of the superintendent of public instruction the authority to render the final decision. [1985 c 225 § 1. Formerly RCW 28A.03.500.]

28A.300.130 Educational information—Superintendent's duties. (1) Recent and expanding activity in educational research has produced and continues to produce much valuable information. The legislature finds that such information should be shared with the citizens and educational community of the state as widely as possible. To facilitate access to information and materials on education, the superintendent of public instruction shall act as the state clearinghouse for educational information.

(2) In carrying out this function, the superintendent of public instruction's primary duty shall be to collect, screen, organize, and disseminate information pertaining to the state's educational system from preschool through grade twelve, including but not limited to in-state research and development efforts; descriptions of exemplary, model, and innovative programs; and related information that can be used in developing more effective programs.

(3) The superintendent of public instruction shall maintain a collection of such studies, articles, reports, research findings, monographs, bibliographies, directories, curriculum materials, speeches, conference proceedings, legal decisions that are concerned with some aspect of the state's education system, and other applicable materials. All materials and information shall be considered public documents under chapter 42.17 RCW and the superintendent of public instruction shall furnish copies of educational materials at nominal cost.

(4) The superintendent of public instruction shall coordinate the dissemination of information with the educational service districts and shall publish and distribute, on a monthly basis, a newsletter describing current activities and developments in education in the state. [1986 c 180 § 1. Formerly RCW 28A.03.510.]

Effective substance abuse programs and penalties—Duties of clearinghouse: RCW 28A.170.060.

Project even start—Adult literacy—Duties of clearinghouse: RCW 28A.610.060.

School involvement programs—Duties of clearinghouse: RCW 28A.615.050.

Student motivation, retention, and retrieval programs—Duties of clearinghouse: RCW 28A.175.070.

28A.300.140 State clearinghouse for educational information revolving fund. There is hereby created the state clearinghouse for educational information revolving fund in the custody of the state treasurer. The fund shall consist of: Funds appropriated to the revolving fund, gifts or grants made to the revolving fund, and fee revenues assessed and collected by the superintendent of public instruction pursuant to RCW 28A.300.130. The superintendent of public instruction is authorized to expend from the state clearinghouse for educational information revolving fund such funds as are necessary for the payment of costs, expenses, and charges incurred in the reproduction, handling, and delivery by mail or otherwise of materials and information furnished pursuant to RCW 28A.300.130(3).

The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements. [1990 c 33 § 256; 1987 c 119 § 1. Formerly RCW 28A.03.511.]

28A.300.150 Information on child abuse and neglect prevention curriculum—Superintendent's duties. The superintendent of public instruction shall collect and disseminate to school districts information on child abuse and neglect prevention curriculum through the state clearinghouse for education information. The superintendent of public instruction and the departments of social and health services and community development shall share relevant information. [1987 c 489 § 2. Formerly RCW 28A.03.512.]

Intent—1987 c 489: "It is the intent of the legislature to make child abuse and neglect primary prevention education and training available to children, including preschool age children, parents, school employees, and licensed day care providers." [1987 c 489 § 1.]

State clearinghouse for educational information: RCW 28A.300.130.

28A.300.160 Development of coordinated primary prevention program for child abuse and neglect—Office as lead agency. (1) The office of the superintendent of public instruction shall be the lead agency and shall assist the department of social and health services, the department of community development, and school districts in establishing a coordinated primary prevention program for child abuse and neglect.

(2) In developing the program, consideration shall be given to the following:

(a) Parent, teacher, and children's workshops whose information and training is:

(i) Provided in a clear, age-appropriate, nonthreatening manner, delineating the problem and the range of possible solutions;

(ii) Culturally and linguistically appropriate to the population served;

(iii) Appropriate to the geographic area served; and

(iv) Designed to help counteract common stereotypes about child abuse victims and offenders;

(b) Training for school age children's parents and school staff, which includes:

(i) Physical and behavioral indicators of abuse;

(ii) Crisis counseling techniques;

(iii) Community resources;

(iv) Rights and responsibilities regarding reporting;

(v) School district procedures to facilitate reporting and apprise supervisors and administrators of reports; and

(vi) Caring for a child's needs after a report is made;

(c) Training for licensed day care providers and parents that includes:

(i) Positive child guidance techniques;

(ii) Physical and behavioral indicators of abuse;

(iii) Recognizing and providing safe, quality day care;

(iv) Community resources;

(v) Rights and responsibilities regarding reporting; and

(vi) Caring for the abused or neglected child;

(d) Training for children that includes:

(i) The right of every child to live free of abuse;

(ii) How to disclose incidents of abuse and neglect;

(iii) The availability of support resources and how to obtain help;

(iv) Child safety training and age-appropriate self-defense techniques; and

(v) A period for crisis counseling and reporting immediately following the completion of each children's workshop in a school setting which maximizes the child's privacy and sense of safety.

(3) The primary prevention program established under this section shall be a voluntary program and shall not be part of the basic program of education.

(4) Parents shall be given notice of the primary prevention program and may refuse to have their children participate in the program. [1987 c 489 § 3. Formerly RCW 28A.03.514.]

Intent—1987 c 489: See note following RCW 28A.300.150.

28A.300.164 Energy information program. The office of the superintendent of public instruction shall develop an energy information program for use in local school districts. The program shall utilize existing curriculum which may include curriculum as developed by districts or the state relating to the requirement under RCW 28A.230.020 that schools provide instruction in science with special reference to the environment, and shall include but not be limited to the following elements:

(1) The fundamental role energy plays in the national and regional economy;

(2) Descriptions and explanations of the various sources of energy which are used both regionally and nationally;

(3) Descriptions and explanations of the ways to use various energy sources more efficiently; and

(4) Advantages and disadvantages to the various sources of present and future supplies of energy.

Under this section the office of superintendent of public instruction shall emphasize providing teacher training, promoting the use of local energy experts in the classroom, and dissemination of energy education curriculum. [1990 c 301 § 2.]

Findings—1990 c 301: "The legislature finds that the state is facing an impending energy supply crisis. The legislature further finds that keeping the importance of energy in the minds of state residents is essential as a means to help avert a future energy supply crisis and that citizens need to be aware of the importance and trade-offs associated with energy efficiency, the implications of wasteful uses of energy, and the need for long-term stable supplies of energy. One efficient and effective method of informing the state's citizens on energy issues is to begin in the school system, where information may guide energy use decisions for decades into the future." [1990 c 301 § 1.]

28A.300.170 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 28A.41.040, 28.41.040.]

Severability—1980 c 6: See note following RCW 28A.515.320.

28A.300.180 Minority teacher recruitment program—Grants. The superintendent of public instruction may grant funds, from moneys appropriated for the purpose of the Washington state minority teacher recruitment program, to selected institutions of higher education and selected school districts to assist in the development and implementation of the teacher recruitment program. [1989 c 146 § 3. Formerly RCW 28A.67.270.]

28A.300.190 Coordination of video telecommunications programming in schools. The office of the superintendent of public instruction shall provide state-wide coordination of video telecommunications programming for the common schools. [1990 c 208 § 8.]

28A.300.200 Teacher exchange programs. To complement RCW 28A.630.230 and chapter 28B.107 RCW, the superintendent of public instruction shall, subject to available funding, coordinate and sponsor student and teacher exchanges between Washington schools and schools in Pacific Rim nations and other nations. The superintendent may solicit and accept grants and donations from public and private sources for the student and teacher exchange program. [1991 c 128 § 13; 1990 c 243 § 9.]

Severability—Effective date—1991 c 128: See RCW 19.166.900 and 19.166.901.

28A.300.210 Energy conservation—Report to legislature. The office of the superintendent of public instruction shall report annually to the energy and utilities committees of the house of representatives and the senate regarding the effects of chapter 201, Laws of 1991, on school districts throughout the state. [1991 c 201 § 18.]

Captions not law—Severability—1991 c 201: See RCW 39.35C.900 and 39.35C.901.

28A.300.220 Cooperation with work force training and education coordinating board. The superintendent shall cooperate with the work force training and education coordinating board in the conduct of the board's responsibilities under RCW 28C.18.060 and shall provide information and data in a format that is accessible to the board. [1991 c 238 § 78.]

Effective dates—Severability—1991 c 238: See RCW 28B.50.917 and 28B.50.918.

28A.300.230 Findings—Integration of vocational and academic education. The legislature finds that the

needs of the work force and the economy necessitate enhanced vocational education opportunities in secondary education including curriculum which integrates vocational and academic education. In order for the state's work force to be competitive in the world market, employees need competencies in both vocational/technical skills and in core essential competencies such as English, math, science/technology, geography, history, and critical thinking. Curriculum which integrates vocational and academic education reflects that many students learn best through applied learning, and that students should be offered flexible education opportunities which prepare them for both the world of work and for higher education. [1991 c 238 § 140.]

Effective dates—Severability—1991 c 238: See RCW 28B.50.917 and 28B.50.918.

28A.300.235 Development of model curriculum integrating vocational and academic education. The superintendent of public instruction shall with the advice of the work force training and education coordinating board develop model curriculum integrating vocational and academic education at the secondary level. The curriculum shall integrate vocational education for gainful employment with education in the academic subjects of English, math, science/technology, geography, and history, and with education in critical thinking. Upon completion, the model curriculum shall be provided for consideration and use by school districts. [1991 c 238 § 141.]

Effective dates—Severability—1991 c 238: See RCW 28B.50.917 and 28B.50.918.

28A.300.240 International student exchange. (1) The superintendent of public instruction shall annually make available to school districts and approved private schools, from data supplied by the secretary of state, the names of international student exchange visitor placement organizations registered under chapter 19.166 RCW to place students in public schools in the state and a summary of the information the organizations have filed with the secretary of state under chapter 19.166 RCW.

(2) The superintendent shall provide general information and assistance to school districts regarding international student exchange visitors, including, to the extent feasible with available resources, information on the type of visa required for enrollment, how to promote positive educational experiences for visiting exchange students, and how to integrate exchange students into the school environment to benefit the education of both the exchange students and students in the state. [1991 c 128 § 11.]

Severability—Effective date—1991 c 128: See RCW 19.166.900 and 19.166.901.

28A.300.250 Participation in federal nutrition programs—Superintendent's duties. The superintendent of public instruction shall aggressively solicit eligible schools, child and adult day care centers, and other organizations to participate in the nutrition programs authorized by the United States department of agriculture. [1991 c 366 § 402.]

Finding—1991 c 366: "Hunger and malnutrition threaten the future of a whole generation of children in Washington. Children who are hungry

or malnourished are unable to function optimally in the classroom and are thus at risk of lower achievement in school. The resultant diminished future capacity of and opportunities for these children will affect this state's economic and social future. Thus, the legislature finds that the state has an interest in helping families provide nutritious meals to children.

The legislature also finds that the state has an interest in helping hungry and malnourished adults obtain necessary nourishment. Adequate nourishment is necessary for physical health, and physical health is the foundation of self-sufficiency. Adequate nourishment is especially critical in the case of pregnant and lactating women, both to ensure that all mothers and babies are as healthy as possible and to minimize the costs associated with the care of low-birthweight babies." [1991 c 366 § 1.]

Finding—1991 c 366: "The legislature finds that the school breakfast and lunch programs, the summer feeding program, and the child and adult day care feeding programs authorized by the United States department of agriculture are effective in addressing unmet nutritional needs. However, some communities in the state do not participate in these programs. The result is hunger, malnutrition, and inadequate nutrition education for otherwise eligible persons living in nonparticipating communities." [1991 c 366 § 401.]

Parts and headings not law—1991 c 366: "Parts and headings as used in this act constitute no part of the law." [1991 c 366 § 502.]

Severability—1991 c 366: "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." [1991 c 366 § 503.]

Effective date—1991 c 366: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1991." [1991 c 366 § 504.]

28A.300.260 Teachers recruiting future teachers program. (1) The teachers recruiting future teachers program is created within the office of the superintendent of public instruction to help enlarge the pool of qualified high school students who are motivated to become teachers.

(2) Subject to funds being appropriated, the superintendent of public instruction shall:

(a) Promote and replicate the teachers recruiting future teachers model program; and

(b) Promote and expand the annual education week program on the campus of Central Washington University or on the campuses of other interested state institutions of higher education.

(3) The superintendent of public instruction, working with the executive director of the teachers recruiting future teachers program and the director of the education week program at Central Washington University, shall adopt rules as necessary under chapter 34.05 RCW to implement the provisions of this section. [1991 c 252 § 1.]

Chapter 28A.305

STATE BOARD OF EDUCATION

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28A.305.170	Rules and regulations accepting national guard high school career training.
28A.305.190	Certificate of educational competence, rules for issuance.
28A.305.200	Seal.
28A.305.210	Assistance of educational service district boards and superintendents—Scope.
28A.305.220	Development of standardized high school transcripts—School districts to inform students of importance.
28A.305.230	Program standards for professional programs—Instruction in child abuse issues encouraged.
28A.305.240	Professional development preparation—Enhancement of agreements between schools or school districts and institutions of higher education.
28A.305.245	Teacher preparation program faculty—Instruction in K-12 classrooms.
28A.305.250	Review of interstate reciprocity provisions for consistency with professional educator requirements—Advice to governor and legislature.

Reimbursement for substitute if employee serves state board or superintendent: RCW 28A.160.220.

28A.305.010 Composition of board. The state board of education shall be comprised of one member 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, the superintendent of public instruction and one member elected at large, as provided in this chapter, by the members of the boards of directors of all private schools in the state meeting the requirements of RCW 28A.195.010. The member representing private schools shall not vote on matters affecting public schools. If there is a dispute about whether or not an issue directly affects public schools, the dispute shall be settled by a majority vote of the other members of the board. [1992 c 56 § 1; 1990 c 33 § 257; 1988 c 255 § 1; 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 28A.04.010, 28.04.010, 43.63.010.]

Severability—1988 c 255: "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." [1988 c 255 § 4.]

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.]

28A.305.020 Call and notice of elections. Not later than the twenty-fifth day of August of each year, the superintendent of public instruction shall call for the follow-

ing elections to be held: An election in each congressional district within which resides a member of the state board of education whose term of membership will end on the second Monday of January next following, and an election of the member of the state board of education representing private schools if the term of membership will end on the second Monday of January next following. The superintendent of public instruction shall give written notice thereof to each member of the board of directors of each common school district in such congressional district, and to the chair of the board of directors of each private school who shall distribute said notice to each member of the private school board. Such notice shall include the election calendar and rules and regulations established by the superintendent of public instruction for the conduct of the election. [1990 c 33 § 258; 1988 c 255 § 2; 1981 c 38 § 1; 1969 ex.s. c 223 § 28A.04.020. Prior: 1955 c 218 § 2; 1947 c 258 § 2; Rem. Supp. 1947 § 4525-1. Formerly RCW 28A.04.020, 28.04.020, 43.63.020.]

Severability—1988 c 255: See note following RCW 28A.305.010.

Severability—1981 c 38: "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." [1981 c 38 § 5.]

28A.305.030 Elections in new congressional districts—Call and conduct of—Member terms—Transitional measures to reduce number of members from each district. (1) Whenever any new and additional congressional district is created, except a congressional district at large, the superintendent of public instruction shall call an election in such district at the time of making the call provided for in RCW 28A.305.020. Such election shall be conducted as other elections provided for in this chapter. At the first such election one member of the state board of education shall be elected for a term of four years.

(2) The terms of office of members of the state board of education who are elected from the various congressional districts shall not be affected by the creation of either new or new and additional districts. In such an event, each board member may continue to serve in office for the balance of the term for which he or she was elected or appointed: PROVIDED, That the board member continues to reside within the boundaries of the congressional district as they existed at the time of his or her election or appointment. Vacancies which occur in a board member position during the balance of any such term shall be filled pursuant to RCW 28A.305.090 by a successor who resides within the boundaries of the congressional district from which the member whose office was vacated was elected as they existed at the time of his or her election. At the election immediately preceding expiration of the term of office of each board member provided for in this subsection following the creation of either new or new and additional congressional districts, and thereafter, a successor shall be elected from the congressional district which corresponds in number with the congressional district from which the incumbent was appointed or elected.

(3) Notwithstanding any other provision of this section or chapter, in order to reduce the number of state board of education members elected from each congressional district from two members to one member the following transitional

measures shall govern board member terms, elections, and voting:

(a) The terms of office for each of the sixteen state board of education members and positions representing the first through the eighth congressional districts shall terminate in a sequence commencing with the terms of the four members and positions representing the third and sixth congressional districts as of the second Monday of January 1993, followed by the terms of the six members and positions representing the first, fourth, and seventh congressional districts as of the second Monday of January 1994, and ending with the termination of the terms of the six members and positions representing the second, fifth, and eighth congressional districts as of the second Monday of January 1995;

(b) An election shall be conducted under RCW 28A.305.040 through 28A.305.060 each year preceding the termination of one or more terms under (a) of this subsection for the purpose of electing one state board of education member from each correspondingly numbered congressional district for a term of four years;

(c) If for any reason a vacancy occurs in one of two positions representing a congressional district before the termination of the term for the position under (a) of this subsection, no replacement may be appointed or elected and the position shall be deemed eliminated; and

(d) During the transition period from the second Monday of January 1993, to the second Monday of January 1995, a vote on any matter before the state board of education by any one of two members representing the same congressional district shall be equal to one-half [of] a vote and a vote by any other member shall be equal to one full vote. Thereafter, the vote of each member shall be equal to one full vote. [1992 c 56 § 3; 1990 c 33 § 259; 1982 1st ex.s. c 7 § 1; 1969 ex.s. c 223 § 28A.04.030. Prior: 1955 c 218 § 3. Formerly RCW 28A.04.030, 28.04.030, 43.63.021.]

Severability—1982 1st ex.s. c 7: "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." [1982 1st ex.s. c 7 § 3.]

28A.305.040 Declarations of candidacy—Qualifications of candidates—Members restricted from service on local boards—Forfeiture of office. (1) 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 the superintendent's 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 or she 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.

(2) The prohibitions against membership upon the board of directors of a school district or school and against employment, as well as the residence requirement, established by this section, are conditions to the eligibility of state board members to serve as such which apply throughout the terms for which they have been elected or appointed. Any state board member who hereafter fails to meet one or more of the conditions to eligibility shall be deemed to have immediately forfeited his or her membership upon the board for the balance of his or her term: PROVIDED, That such a forfeiture of office shall not affect the validity of board actions taken prior to the date of notification to the board during an open public meeting of the violation. [1990 c 33 § 260; 1982 1st ex.s. c 7 § 2; 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 28A.04.040, 28.04.040, 43.63.023.]

Severability—1982 1st ex.s. c 7: See note following RCW 28A.305.030.

Severability—1980 c 179: See note following RCW 28A.305.010.

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.] For codification of 1971 c 48, see Codification Tables, Volume 0.

28A.305.050 Qualifications of voters—Ballots—Voting instructions—Candidates' biographical data. Each member of the board of directors of each school district in each congressional district shall be eligible to vote for the candidates who reside in his or her congressional district. Each chair of the board of directors of each eligible private school shall cast a vote for the candidate receiving a majority in an election to be held as follows: Each member of the board of directors of each eligible private school shall vote for candidates representing the private schools in an election of the board, the purpose of which is to determine the board's candidate for the member representing private schools on the state board. Not later than the first day of October the superintendent of public instruction shall mail to each member of each common school district board of directors and to each chair of the board of directors of each private school, the proper ballot and voting instructions for his or her congressional district together with biographical data concerning each candidate listed on such ballot, which data shall have been prepared by the candidate. [1990 c 33 § 261; 1988 c 255 § 3; 1981 c 38 § 2; 1969 ex.s. c 223 § 28A.04.050. Prior: 1955 c 218 § 6. Formerly RCW 28A.04.050, 28.04.050, 43.63.025.]

Severability—1988 c 255: See note following RCW 28A.305.010.

Severability—1981 c 38: See note following RCW 28A.305.020.

28A.305.060 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. The votes shall be counted and tallied and electoral points determined in the following manner for the ballot cast by common school district board directors: 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. The votes shall be counted and electoral points determined in the following manner for the ballots cast by chairs of the board of directors of each private school: Each vote cast by a private school board shall be accorded as many electoral points as the number of enrolled students in the respective school as determined by enrollment reports forwarded to the superintendent of public instruction for the month of September in the year previous to the year of election 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. [1990 c 33 § 262; 1981 c 38 § 3; 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 28A.04.060, 28.04.060, 43.63.030.]

Severability—1981 c 38: See note following RCW 28A.305.020.

Severability—1980 c 179: See note following RCW 28A.305.010.

Severability—1969 ex.s. c 283: See note following RCW 28A.150.050.

28A.305.070 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. Formerly RCW 28A.04.065.]

Severability—1980 c 179: See note following RCW 28A.305.010.

28A.305.080 Terms of office. The term of office of each member of the state board of education shall begin on the second Monday in January next following the election at which he or she was elected, and he or she shall hold office for the term for which he or she was elected and until his or her successor is elected and qualified. Except as otherwise provided in RCW 28A.305.030, each member of the state board of education shall be elected for a term of four years. [1992 c 56 § 2; 1990 c 33 § 263; 1969 ex.s. c 223 § 28A.04.070. Prior: 1955 c 218 § 7; 1947 c 258 § 9; Rem. Supp. 1947 § 4525-8. Formerly RCW 28A.04.070, 28.04.070, 43.63.090.]

28A.305.090 Vacancies, filling. Whenever there shall be a vacancy upon the state board of education, from any cause whatever, it shall be the duty of the remaining members of the board to fill such vacancy by appointment, and the person so appointed shall continue in office until his or her successor has been specially elected, as hereinafter in this section provided, and has qualified. Whenever a vacancy occurs, the superintendent of public instruction shall call, in the month of August next following the date of the occurrence of such vacancy, a special election to be held in the same manner as other elections provided for in this chapter, at which election a successor shall be elected to hold office for the unexpired term of the member whose office was vacated. [1990 c 33 § 264; 1969 ex.s. c 223 § 28A.04.080. Prior: 1955 c 218 § 8; 1947 c 258 § 10; Rem. Supp. 1947 § 4525-9. Formerly RCW 28A.04.080, 28.04.080, 43.63.100.]

28A.305.100 Superintendent as ex officio member and chief executive officer of board. The state board of education shall annually elect a president and vice president. The superintendent of public instruction shall be an ex officio member and the chief executive officer of the board. As such ex officio member the superintendent shall have the right to vote only when there is a question before the board upon which no majority opinion has been reached among the board members present and voting thereon and the superintendent's vote is essential for action thereon. The superintendent, as chief executive officer of the board, shall furnish all necessary record books and forms for its use, and shall represent the board in directing the work of school inspection. [1982 c 160 § 1; 1969 ex.s. c 223 § 28A.04.090. Prior: 1967 c 158 § 2; 1909 c 97 p 235 § 2; RRS § 4526. Formerly RCW 28A.04.090, 28.04.090, 43.63.110.]

Severability—1982 c 160: "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." [1982 c 160 § 4.]

28A.305.110 Ex officio secretary of board. The state board of education shall appoint some person to be ex officio secretary of said board who shall not be entitled to a vote in its proceedings. The secretary shall keep a correct record of board proceedings, which shall be kept in the office of the superintendent of public instruction. He or she shall also, upon request, furnish to interested school officials a copy of such proceedings. [1990 c 33 § 265; 1982 c 160 § 3; 1969 ex.s. c 223 § 28A.04.100. Prior: 1909 c 97 p 235 § 3; RRS § 4527. Formerly RCW 28A.04.100, 28.04.100, 43.63.120.]

Severability—1982 c 160: See note following RCW 28A.305.100.

Records of meetings kept by superintendent of public instruction: RCW 28A.300.040.

28A.305.120 Meetings—Compensation and travel expenses of members. The state board of education shall hold an annual meeting and such other regular meetings at such time and place within the state as the board shall determine and may hold such special meetings as may be deemed necessary for the transaction of public business, such special meetings to be called by the superintendent of public instruction, or by a majority of the board. The persons serving as members of the state board of education shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed by the superintendent of public instruction for travel expenses in accordance with RCW 43.03.050 and 43.03.060 incurred in the performance of their duties which expenses shall be paid by the state treasurer on warrants out of funds appropriated or otherwise available, upon the order of the superintendent. [1984 c 287 § 60; 1975-'76 2nd ex.s. c 34 § 67; 1973 c 106 § 13; 1969 ex.s. c 223 § 28A.04.110. Prior: 1909 c 97 p 235 § 4; RRS § 4528. Formerly RCW 28A.04.110, 28.04.110, 43.63.130.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

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

Records of meetings kept by superintendent of public instruction: RCW 28A.300.040.

State treasurer to issue state warrants: RCW 43.88.160.

28A.305.130 Powers and duties generally. In addition to any other powers and duties as provided by law, the state board of education shall:

(1) Approve or disapprove the program of courses leading to teacher, school administrator, and school specialized personnel certification offered by all institutions of higher education within the state which may be accredited and whose graduates may become entitled to receive such certification.

(2) Conduct every five years a review of the program approval standards, including the minimum standards for teachers, administrators, and educational staff associates, to reflect research findings and assure continued improvement of preparation programs for teachers, administrators, and educational staff associates.

(3) Investigate the character of the work required to be performed as a condition of entrance to and graduation from any institution of higher education in this state relative to such certification as provided for in subsection (1) above, and prepare a list of accredited institutions of higher education of this and other states whose graduates may be awarded such certificates.

(4)(a) The state board of education shall adopt rules to allow a teacher certification candidate to fulfill, in part, teacher preparation program requirements through work experience as a noncertificated teacher's aide in a public school or private school meeting the requirements of RCW 28A.195.010. The rules shall include, but are not limited to, limitations based upon the recency of the teacher preparation candidate's teacher aide work experience, and limitations based on the amount of work experience that may apply toward teacher preparation program requirements under this chapter.

(b) The state board of education shall require that at the time of the individual's enrollment in a teacher preparation program, the supervising teacher and the building principal shall jointly provide to the teacher preparation program of the higher education institution at which the teacher candidate is enrolled, a written assessment of the performance of the teacher candidate. The assessment shall contain such information as determined by the state board of education and shall include: Evidence that at least fifty percent of the candidate's work as a noncertificated teacher's aide was involved in instructional activities with children under the supervision of a certificated teacher and that the candidate worked a minimum of six hundred thirty hours for one school year; the type of work performed by the candidate; and a recommendation of whether the candidate's work experience as a noncertificated teacher's aide should be substituted for teacher preparation program requirements. In compliance with such rules as may be established by the state board of education under this section, the teacher preparation programs of the higher education institution where the candidate is enrolled shall make the final determination as to what teacher preparation program requirements may be fulfilled by teacher aide work experience.

(5) Supervise the issuance of such certificates as provided for in subsection (1) above and specify the types and kinds of certificates necessary for the several departments of the common schools by rule or regulation in accordance with RCW 28A.410.010.

(6) Accredite, subject to such accreditation standards and procedures as may be established by the state board of education, all schools that apply for accreditation, and approve, subject to the provisions of RCW 28A.195.010, private schools carrying out a program for any or all of the grades one through twelve: PROVIDED, That no public or private schools shall be placed upon the list of accredited schools so long as secret societies are knowingly allowed to exist among its students by school officials: PROVIDED FURTHER, That the state board may elect to require all or certain classifications of the public schools to conduct and participate in such pre-accreditation examination and evaluation processes as may now or hereafter be established by the board.

(7) Make rules and regulations governing the establishment in any existing nonhigh school district of any secondary program or any new grades in grades nine through twelve. Before any such program or any new grades are established the district must obtain prior approval of the state board.

(8) Prepare such outline of study for the common schools as the board shall deem necessary, and prescribe such rules for the general government of the common schools, as shall seek to secure regularity of attendance, prevent truancy, secure efficiency, and promote the true interest of the common schools.

(9) Continuously reevaluate courses and adopt and enforce regulations within the common schools so as to meet the educational needs of students and articulate with the institutions of higher education and unify the work of the public school system.

(10) Carry out board powers and duties relating to the organization and reorganization of school districts under RCW 28A.315.010 through 28A.315.680 and 28A.315.900.

(11) By rule or regulation promulgated upon the advice of the director of community development, through the director of fire protection, provide for instruction of pupils in the public and private schools carrying out a K through 12 program, or any part thereof, so that in case of sudden emergency they shall be able to leave their particular school building in the shortest possible time or take such other steps as the particular emergency demands, and without confusion or panic; such rules and regulations shall be published and distributed to certificated personnel throughout the state whose duties shall include a familiarization therewith as well as the means of implementation thereof at their particular school.

(12) Hear and decide appeals as otherwise provided by law.

The state board of education is given the authority to promulgate information and rules dealing with the prevention of child abuse for purposes of curriculum use in the common schools. [1991 c 116 § 11; 1990 c 33 § 266. Prior: 1987 c 464 § 1; 1987 c 39 § 1; prior: 1986 c 266 § 86; 1986 c 149 § 3; 1984 c 40 § 2; 1979 ex.s. c 173 § 1; 1975-'76 2nd ex.s. c 92 § 1; 1975 1st ex.s. c 275 § 50; 1974 ex.s. c 92 § 1; 1971 ex.s. c 215 § 1; 1971 c 48 § 2; 1969 ex.s. c 223 § 28A.04.120; prior: 1963 c 32 § 1; 1961 c 47 § 1; prior: (i) 1933 c 80 § 1; 1915 c 161 § 1; 1909 c 97 p 236 § 5; 1907 c 240 § 3; 1903 c 104 § 12; 1897 c 118 § 27; 1895 c 150 § 1; 1890 p 352 § 8; Code 1881 § 3165; RRS § 4529. (ii) 1919 c 89 § 3; RRS § 4684. (iii) 1909 c 97 p 238 § 6; 1897

c 118 § 29; RRS § 4530. Formerly RCW 28A.04.120, 28.04.120, 28.58.280, 28.58.281, 28.58.282, 43.63.140.]

Severability—1986 c 266: See note following RCW 38.52.005.

Severability—1984 c 40: See note following RCW 28A.195.050.

Severability—1975-'76 2nd ex.s. c 92: "If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975-'76 2nd ex.s. c 92 § 6.]

Child abuse and neglect—Development of primary prevention program: RCW 28A.300.160.

Districts to develop programs and establish programs regarding child abuse and neglect prevention: RCW 28A.225.200.

Professional certification not to be required of superintendents, deputy or assistant superintendents: RCW 28A.410.120.

Use of force on children—Policy—Actions presumed unreasonable: RCW 9A.16.100.

28A.305.140 Waiver from provisions authorized.

(Contingent expiration date.) (1) The self-study process requirements under *RCW 28A.320.200, the teacher classroom contact requirements under RCW 28A.150.260(4), and the program hour offerings requirements under RCW 28A.150.200 through 28A.150.220 shall be waived for school districts or individual schools within a district if the school district submits to the state board of education a plan for restructuring its educational program, or the educational program of individual schools within the district that includes:

(a) Specific standards for increased student learning that the district expects to achieve;

(b) How the district plans to achieve the higher standards, including timelines for implementation;

(c) How the district plans to determine if the higher standards are met;

(d) Evidence that the board of directors, teachers, administrators, and classified employees are committed to working cooperatively in implementing the plan;

(e) Evidence that opportunities were provided for parents and citizens to be involved in the development of the plan; and

(f) Identification of the state requirements that will be waived.

(2) Waivers granted by the state board of education under this section shall be renewed every three years upon the state board of education receiving a renewal request from the school district board of directors. Before filing the request, the school district shall conduct at least one public meeting to evaluate the educational programs that were implemented as a result of the waivers. The request to the state board of education shall include information regarding the activities and programs implemented as a result of the waivers, whether the higher standards for students are being achieved, and a summary of the comments received at the public meeting or meetings.

(3) If a school district intends to waive the program hour offerings under RCW 28A.150.220, it shall make available to students enrolled in kindergarten at least a total instructional offering of four hundred fifty hours. Each school district also shall make available to students enrolled in grades one through twelve at least a district-wide annual average total instructional hour offering of one thousand hours. A school district may schedule the last thirty instruc-

tional hours of any school year for noninstructional purposes in the case of students who are graduating from high school, including, but not limited to, the observance of graduation and early release from school upon the request of a student, and all such students may be claimed as full-time equivalent students to the extent they could otherwise have been so claimed for the purposes of RCW 28A.150.250 and 28A.150.260. The state board of education may define alternatives to classroom instructional time for students in grades nine through twelve enrolled in alternative learning experiences. The state board of education shall establish rules to determine annual average instructional hours for districts having fewer than twelve grades. The program shall include instruction in the essential academic learning requirements under **RCW 28A.630.885 and other subjects and activities the school district determines to be appropriate.

(4) "Instructional hours" means those hours students are provided the opportunity to engage in educational activity planned by and under the direction of school district staff, as directed by the administration and board of directors of the district, inclusive of intermissions for class changes, recess, and teacher/parent-guardian conferences that are planned and scheduled by the district for the purpose of discussing students' educational needs or progress, and exclusive of time actually spent for meals. [1992 c 141 § 302; 1990 c 33 § 267; 1985 c 349 § 6. Formerly RCW 28A.04.127.]

Reviser's note: *(1) RCW 28A.320.200 was repealed by 1992 c 141 § 506, effective September 1, 1998.

** (2) See note following RCW 28A.630.885.

Contingent expiration date—1992 c 141 § 302: "Section 302 of this act shall expire September 1, 1998. However, this section shall not take effect if, by September 1, 1998, a law is enacted stating that a school accountability and academic assessment system is not in place." [1992 c 141 § 508.]

Findings—Part headings—Severability—1992 c 141: See notes following RCW 28A.410.040.

Severability—1985 c 349: See note following RCW 28A.630.800.

28A.305.140 Waiver from provisions of RCW 28A.150.200 through 28A.150.220 authorized. (Contingent effective date.) The state board of education may grant waivers to school districts from the provisions of RCW 28A.150.200 through 28A.150.220 on the basis that such waiver or waivers are necessary to implement successfully a local plan to provide for all students in the district an effective education system that is designed to enhance the educational program for each student. The local plan may include alternative ways to provide effective educational programs for students who experience difficulty with the regular education program.

The state board shall adopt criteria to evaluate the need for the waiver or waivers. [1990 c 33 § 267; 1985 c 349 § 6. Formerly RCW 28A.04.127.]

Severability—1985 c 349: See note following RCW 28A.630.800.

28A.305.150 Classification, numbering system of school districts—Rules and regulations for. The state board of education is hereby empowered, and it shall be the duty of said board, to prescribe rules and regulations governing the classification and numbering system of school districts, except as otherwise provided by law. [1971 c 54 § 1; 1969 ex.s. c 223 § 28A.04.130. Prior: 1917 c 21 § 2;

RRS § 4711. Formerly RCW 28A.04.130, 28.04.130, 28.01.040, part; 43.63.150.]

Severability—1971 c 54: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 c 54 § 2.]

28A.305.160 Rules and regulations incorporating due process guarantees of pupils—Informal due process procedures when suspension of students. The state board of education shall adopt and distribute to all school districts lawful and reasonable rules and regulations prescribing the substantive and procedural due process guarantees of pupils in the common schools. Such rules and regulations shall authorize a school district to use informal due process procedures in connection with the short term suspension of students to the extent constitutionally permissible: PROVIDED, That the state board deems the interest of students to be adequately protected. [1975-'76 2nd ex.s. c 97 § 1; 1971 ex.s. c 268 § 2. Formerly RCW 28A.04.132.]

28A.305.170 Rules and regulations accepting national guard high school career training. In addition to any other powers and duties as provided by law, the state board of education shall adopt rules and regulations governing and authorizing the acceptance of national guard high school career training in lieu of either required high school credits or elective high school credits. Students enrolled in such national guard programs shall be considered enrolled in the common school last attended preceding enrollment in such national guard program. [1975 1st ex.s. c 262 § 1. Formerly RCW 28A.04.133.]

28A.305.190 Certificate of educational competence, rules for issuance. The state board of education shall adopt rules and regulations governing the conditions by and under which a certificate of educational competence may be issued to a person nineteen years of age or older, or to a child fifteen years of age and under nineteen years of age if the child provides a substantial and warranted reason for leaving the regular high school education program, or if the child was home-schooled. [1991 c 116 § 5; 1973 c 51 § 2. Formerly RCW 28A.04.135.]

Severability—1973 c 51: See note following RCW 28A.225.010.

Waiver of fees or residency requirements at community colleges for students completing a high school education: RCW 28B.15.520.

28A.305.200 Seal. The state board of education shall adopt a seal which shall be kept in the office of the superintendent of public instruction. [1969 ex.s. c 223 § 28A.04.140. Prior: 1909 c 97 p 238 § 7; RRS § 4531. Formerly RCW 28A.04.140, 28.04.140, 28.01.040, part; 43.63.160.]

28A.305.210 Assistance of educational service district boards and superintendents—Scope. The state board of education, by rule or regulation, may require the assistance of educational service district boards and/or superintendents in the performance of any duty, authority, or power imposed upon or granted to the state board of education by law, upon such terms and conditions as the

state board of education shall establish. Such authority to assist the state board of education shall be limited to the service function of information collection and dissemination and the attestation to the accuracy and completeness of submitted information. [1975 1st ex.s. c 275 § 51; 1971 ex.s. c 282 § 30. Formerly RCW 28A.04.145.]

Severability—1971 ex.s. c 282: See note following RCW 28A.310.010.

28A.305.220 Development of standardized high school transcripts—School districts to inform students of importance. (1) The state board of education shall develop for use by all public school districts a standardized high school transcript. The state board of education shall establish clear definitions for the terms "credits" and "hours" so that school programs operating on the quarter, semester, or trimester system can be compared.

(2) Transcripts are important documents to students who will apply for admission to postsecondary institutions of higher education. Transcripts are also important to students who will seek employment upon or prior to graduation from high school. It is recognized that student transcripts may be the only record available to employers in their decision-making processes regarding prospective employees. The superintendent of public instruction shall require school districts to inform annually all high school students that prospective employers may request to see transcripts and that the prospective employee's decision to release transcripts can be an important part of the process of applying for employment. [1984 c 178 § 1. Formerly RCW 28A.04.155.]

High school diplomas—Receiving final transcript optional: RCW 28A.230.120.

28A.305.230 Program standards for professional programs—Instruction in child abuse issues encouraged. The legislature finds that learning is more difficult for many children because they are the victims of child abuse. Educators are often in a position to identify and assist these children in coping with their unfortunate circumstances. Educators should be trained to deal with this responsibility. The legislature, therefore, encourages the state board of education to include in its program standards for professional preparation programs instruction in child abuse issues. [1985 c 419 § 1. Formerly RCW 28A.04.165.]

Severability—1985 c 419: "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." [1985 c 419 § 7.]

28A.305.240 Professional development preparation—Enhancement of agreements between schools or school districts and institutions of higher education. In developing the standards under RCW 28A.410.040, 28A.410.050, and 28A.410.150 through 28A.410.190, the state board of education shall review ways to strengthen program unit functions and processes to enhance cooperative agreements between public or private institutions of higher education and schools or school districts. [1990 c 33 § 268; 1987 c 525 § 217. Formerly RCW 28A.04.176.]

Intent—Short title—1987 c 525 §§ 202-233: See notes following RCW 28A.410.020.

Severability—1987 c 525: See note following RCW 28A.630.100.

28A.305.245 Teacher preparation program faculty—Instruction in K-12 classrooms. In addition to other approval requirements for teacher preparation programs under RCW 28A.305.130(1), the state board of education shall require that the program annually develop and implement a plan to increase the level of collaboration and interaction between the program's faculty and K-12 schools in the state. The plan shall require, to the maximum extent feasible, that each member of the faculty annually provide instruction in K-12 classrooms. [1991 c 259 § 3.]

Findings—1991 c 259: "The legislature finds that the demands on teachers in the K-12 schools are evolving as society changes. Factors such as the increase in the number of single-parent households, drug and alcohol abuse, high dropout rates, and increasing rates of crime, among other things, are changing the nature of the teaching enterprise. The legislature also finds that college and university faculty engaged in training prospective teachers need to have first-hand experience of the nature of this changing enterprise. The legislature finds that a recently certified teacher in the K-12 system is required to engage in continuing education in order to stay current in his or her field. The legislature intends to require higher education faculty whose primary responsibility is teaching prospective teachers to engage in a form of public service and continuing education by teaching in the public schools." [1991 c 259 § 1.]

28A.305.250 Review of interstate reciprocity provisions for consistency with professional educator requirements—Advice to governor and legislature. The state board of education and the office of the superintendent of public instruction shall review the provisions of the interstate agreement on qualifications of educational personnel under chapter 28A.690 RCW, and advise the governor and the legislature on which interstate reciprocity provisions will require amendment to be consistent with RCW 28A.410.040 and 28A.410.050 by January 1, 1992. [1990 c 33 § 269; 1989 c 11 § 4; 1987 c 525 § 226. Formerly RCW 28A.04.178.]

Severability—1989 c 11: See note following RCW 9A.56.220.

Intent—Short title—1987 c 525 §§ 202-233: See notes following RCW 28A.410.020.

Severability—1987 c 525: See note following RCW 28A.630.100.

Chapter 28A.310

EDUCATIONAL SERVICE DISTRICTS

Sections

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Interlocal cooperation act: Chapter 39.34 RCW.

Redistricting by local governments and municipal corporations—Census information for—Plan, prepared when, criteria for, hearing on, request for review of, certification, remand—Sanctions when review request frivolous: RCW 29.70.100.

28A.310.010 Purpose. It shall be the intent and purpose of this chapter to establish educational service districts as regional agencies which are intended to:

(1) Provide cooperative and informational services to local school districts;

(2) Assist the superintendent of public instruction and the state board of education in the performance of their respective statutory or constitutional duties; and

(3) Provide services to school districts and to the school for the deaf and the school for the blind to assure equal educational opportunities. [1988 c 65 § 1; 1977 ex.s. c 283 § 1; 1975 1st ex.s. c 275 § 1; 1971 ex.s. c 282 § 1; 1969 ex.s. c 176 § 1. Formerly RCW 28A.21.010, 28.19.500.]

Severability—1977 ex.s. c 283: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 283 § 26.]

Severability—1971 ex.s. c 282: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 282 § 45.]

Rights preserved—1969 ex.s. c 176: "The amendment or repeal of any section referred to herein shall not be construed as affecting any existing right acquired under the provisions of the statutes amended or repealed nor any rule, regulation or order adopted pursuant thereto nor as affecting any proceeding as instituted thereunder." [1969 ex.s. c 176 § 160.]

Severability—1969 ex.s. c 176: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1969 ex.s. c 176 § 161.]

28A.310.020 Changes in number of, boundaries—Initiating, hearings, considerations—Superintendent's duties. The state board of education upon its own initiative, or upon petition of any educational service district board, or upon petition of at least half of the district superintendents within an educational service district, or upon request of the superintendent of public instruction, may make changes in the number and boundaries of the educational service districts, including an equitable adjustment and transfer of any and all property, assets, and liabilities among the educational service districts whose boundaries and duties and responsibilities are increased and/or decreased by such changes, consistent with the purposes of RCW 28A.310.010: PROVIDED, That no reduction in the number of educational service districts will take effect without a majority approval vote by the affected school directors voting in such election by mail ballot. Prior to making any such changes, the state board shall hold at least one public hearing on such proposed action and shall consider any recommendations on such proposed action.

The state board in making any change in boundaries shall give consideration to, but not be limited by, the following factors: Size, population, topography, and climate of the proposed district.

The superintendent of public instruction shall furnish personnel, material, supplies, and information necessary to enable educational service district boards and superintendents to consider the proposed changes. [1990 c 33 § 270; 1977 ex.s. c 283 § 2; 1971 ex.s. c 282 § 2; 1969 ex.s. c 176 § 2. Formerly RCW 28A.21.020, 28.19.505.]

Severability—1977 ex.s. c 283: See note following RCW 28A.310.010.

Severability—1971 ex.s. c 282: See note following RCW 28A.310.010.

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.310.030 ESD board—Members—Number, from board-member districts—Board-member district boundaries, determination of, changes in. Except as otherwise provided in this chapter, in each educational service district there shall be an educational service district board consisting of seven members elected by the school directors of the educational service district, one from each of seven educational service district board-member districts. Board-member districts in districts reorganized under RCW 28A.310.020, or as provided for in RCW 28A.310.120 and under this section, shall be initially determined by the state board of education. If a reorganization pursuant to RCW 28A.310.020 places the residence of a board member into another or newly created educational service district, such member shall serve on the board of the educational service district of residence and at the next election called by the secretary to the state board of education pursuant to RCW 28A.310.080 a new seven member board shall be elected. If the redrawing of board-member district boundaries pursuant to this chapter shall cause the resident board-member district of two or more board members to coincide, such board members shall continue to serve on the board and at the next election called by the secretary to the state board of education a new board shall be elected. The board-member districts shall be arranged so far as practicable on a basis of equal population, with consideration being given existing board members of existing educational service district boards. Each educational service district board member shall be elected by the school directors of each school district within the educational service district. Beginning in 1971 and every ten years thereafter, educational service district boards shall review and, if necessary, shall change the boundaries of board-member districts so as to provide so far as practicable equal representation according to population of such board-member districts and to conform to school district boundary changes: PROVIDED, That all board-member district boundaries, to the extent necessary to conform with this chapter, shall be immediately redrawn for the purposes of the next election called by the secretary to the state board of education following any reorganization pursuant to this chapter. Such district board, if failing to make the necessary changes prior to June 1 of the appropriate year, shall refer for settlement questions on board-member district boundaries to the state board of education, which, after a public hearing, shall decide such questions. [1990 c 33 § 271; 1977 ex.s. c 283

§ 14; 1975 1st ex.s. c 275 § 3; 1974 ex.s. c 75 § 1; 1971 ex.s. c 282 § 3; 1969 ex.s. c 176 § 3. Formerly RCW 28A.21.030, 28.19.510.]

Severability—1977 ex.s. c 283: See note following RCW 28A.310.010.

Severability—1974 ex.s. c 75: "If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 75 § 24.]

Severability—1971 ex.s. c 282: See note following RCW 28A.310.010.

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.310.010.

City, town, and district general elections—Exceptions—Special elections: RCW 29.13.020.

County auditor designated supervisor of certain elections: RCW 29.04.020.
Notice of election—Certification of measures: RCW 29.27.080.

28A.310.040 ESD board—Members—Terms. The term of office for each board member shall be four years and until a successor is duly elected and qualified. For the first election or an election following reorganization, board-member district positions numbered one, three, five, and seven in each educational service district shall be for a term of four years and positions numbered two, four, and six shall be for a term of two years. [1975 1st ex.s. c 275 § 5; 1974 ex.s. c 75 § 4. Formerly RCW 28A.21.0303.]

Severability—1974 ex.s. c 75: See note following RCW 28A.310.030.

28A.310.050 ESD board—Members—Terms, when nine member board. Any educational service district board may elect by resolution of the board to increase the board member size to nine board members. In such case positions number eight and nine shall be filled at the next election called by the secretary to the state board of education, position numbered eight to be for a term of two years, position numbered nine to be for a term of four years. Thereafter the terms for such positions shall be for four years. [1977 ex.s. c 283 § 19; 1975 1st ex.s. c 275 § 6; 1974 ex.s. c 75 § 5. Formerly RCW 28A.21.0304.]

Severability—1977 ex.s. c 283: See note following RCW 28A.310.010.

Severability—1974 ex.s. c 75: See note following RCW 28A.310.030.

28A.310.060 ESD board—Members—Terms, begin when—Vacancies, filling of. The term of every educational service district board member shall begin on the second Monday in January next following the election at which he or she was elected: PROVIDED, That a person elected to less than a full term pursuant to this section shall take office as soon as the election returns have been certified and he or she has qualified. In the event of a vacancy in the board from any cause, such vacancy shall be filled by appointment of a person from the same board-member district by the educational service district board. In the event that there are more than three vacancies in a seven-member board or four vacancies in a nine-member board, the state board of education shall fill by appointment sufficient vacancies so that there shall be a quorum of the board serving. Each appointed board member shall serve until his or her succes-

sor has been elected at the next election called by the secretary to the state board of education and has qualified. [1977 ex.s. c 283 § 20; 1975 1st ex.s. c 275 § 7; 1974 ex.s. c 75 § 6. Formerly RCW 28A.21.0305.]

Severability—1977 ex.s. c 283: See note following RCW 28A.310.010.

Severability—1974 ex.s. c 75: See note following RCW 28A.310.030.

28A.310.070 ESD board—Members—Restriction on other service. No person shall serve as an employee of a school district or as a member of a board of directors of a common school district or as a member of the state board of education and as a member of an educational service district board at the same time. [1975 1st ex.s. c 275 § 8; 1974 ex.s. c 75 § 7. Formerly RCW 28A.21.0306.]

Severability—1974 ex.s. c 75: See note following RCW 28A.310.030.

28A.310.080 ESD board—Members—Elections, calling and notice of. On or before the twenty-fifth day of August, 1978, and not later than the twenty-fifth day of August of every subsequent year, the secretary to the state board of education shall call an election to be held in each educational service district within which resides a member of the board of the educational service district whose term of office expires on the second Monday of January next following, and shall give written notice thereof to each member of the board of directors of each school district in such educational service district. Such notice shall include instructions, rules, and regulations established by the state board of education for the conduct of the election. [1977 ex.s. c 283 § 15. Formerly RCW 28A.21.031.]

Severability—1977 ex.s. c 283: See note following RCW 28A.310.010.

28A.310.090 ESD board—Members—Elections, filing of declarations of candidacy. Candidates for membership on an educational service district board shall file declarations of candidacy with the secretary to the state board of education on forms prepared by the secretary. Declarations of candidacy may be filed by person or by mail not earlier than the first day of September, nor later than the sixteenth day of September. The secretary to the state board of education may not accept any declaration of candidacy that is not on file in his or her office or is not postmarked before the seventeenth day of September. [1977 ex.s. c 283 § 16. Formerly RCW 28A.21.032.]

Severability—1977 ex.s. c 283: See note following RCW 28A.310.010.

28A.310.100 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. Formerly RCW 28A.21.033.]

Severability—1980 c 179: See note following RCW 28A.305.010.

Severability—1977 ex.s. c 283: See note following RCW 28A.310.010.

28A.310.110 ESD board—Members—Elections, contest of. Any common school district board member eligible to vote for a candidate for membership on an educational service district or any candidate for the position, within ten days after the secretary to the state board of education's certification of election, may contest the election of the candidate pursuant to RCW 28A.305.070. [1990 c 33 § 272; 1977 ex.s. c 283 § 18. Formerly RCW 28A.21.034.]

Severability—1977 ex.s. c 283: See note following RCW 28A.310.010.

28A.310.120 ESD board—Return to seven member board. Any educational service district board which elects under RCW 28A.310.050 to increase the size of the educational service district board from seven to nine members, after at least four years, may elect by resolution of the board to return to a membership of seven educational service board members. In such case, at the next election a new board consisting of seven educational service board members shall be elected in accordance with the provisions of this chapter. [1990 c 33 § 273; 1977 ex.s. c 283 § 21; 1975 1st ex.s. c 275 § 9; 1974 ex.s. c 75 § 8; 1971 ex.s. c 282 § 4. Formerly RCW 28A.21.035.]

Severability—1977 ex.s. c 283: See note following RCW 28A.310.010.

Severability—1974 ex.s. c 75: See note following RCW 28A.310.030.

Severability—1971 ex.s. c 282: See note following RCW 28A.310.010.

28A.310.130 ESD board—Vacation of board member position because of failure to attend meetings. Absence of any educational service district board member from four consecutive regular meetings of the board, unless excused on account of sickness or otherwise authorized by resolution of the board, shall be sufficient cause for the members of the educational service district board to declare by resolution that such board member position is vacated. [1975 1st ex.s. c 275 § 10; 1971 ex.s. c 282 § 5. Formerly RCW 28A.21.037.]

Severability—1971 ex.s. c 282: See note following RCW 28A.310.010.

28A.310.140 School district to be entirely within single educational service district. Every school district must be included entirely within a single educational service district. If the boundaries of any school district within an educational service district are changed in any manner so as to extend the school district beyond the boundaries of that educational service district, the state board shall change the boundaries of the educational service districts so affected in a manner consistent with the purposes of RCW 28A.310.010 and this section. [1990 c 33 § 274; 1975 1st ex.s. c 275 § 11; 1971 ex.s. c 282 § 6; 1969 ex.s. c 176 § 4. Formerly RCW 28A.21.040, 28.19.515.]

Severability—1971 ex.s. c 282: See note following RCW 28A.310.010.

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.310.150 ESD board—Members, qualification, oath, bond—Organization—Quorum. Every candidate for membership on a educational service district board shall be a registered voter and a resident of the board-member district for which such candidate files. On or before the date for taking office, every member shall make an oath or affirmation to support the Constitution of the United States and the state of Washington and to faithfully discharge the duties of the office according to the best of such member's ability. The members of the board shall not be required to give bond unless so directed by the state board of education. At the first meeting of newly elected members and after the qualification for office of the newly elected members, each educational service district board shall reorganize by electing a chair and a vice chair. A majority of all of the members of the board shall constitute a quorum. [1990 c 33 § 275; 1977 ex.s. c 283 § 22; 1975 1st ex.s. c 275 § 12; 1971 ex.s. c 282 § 7; 1969 ex.s. c 176 § 5. Formerly RCW 28A.21.050, 28.19.520.]

Severability—1977 ex.s. c 283: See note following RCW 28A.310.010.

Severability—1971 ex.s. c 282: See note following RCW 28A.310.010.

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.310.160 ESD board—Reimbursement of members for expenses. The actual expenses of educational service board members in going to, returning from and attending meetings called or held pursuant to district business or while otherwise engaged in the performance of their duties under this chapter shall be paid; all such claims shall

be approved by the educational service district board and paid from the budget of the educational service district. [1977 ex.s. c 283 § 3; 1975-'76 2nd ex.s. c 34 § 68; 1975 1st ex.s. c 275 § 13; 1971 ex.s. c 282 § 8; 1969 ex.s. c 176 § 6. Formerly RCW 28A.21.060, 28.19.525.]

Severability—1977 ex.s. c 283: See note following RCW 28A.310.010.

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

Severability—1971 ex.s. c 282: See note following RCW 28A.310.010.

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.310.170 ESD superintendent—Appointment, procedure—Term, salary, discharge—ESD superintendent review committee. (1) Every educational service district board shall employ and set the salary of an educational service district superintendent who shall be employed by a written contract for a term to be fixed by the board, but not to exceed three years, and who may be discharged for sufficient cause.

(2) There is hereby established within each educational service district an educational service district superintendent review committee. Such review committee shall be composed of two school district superintendents from within the educational service district selected by the educational service district board and a representative of the state superintendent of public instruction selected by the state superintendent of public instruction.

(3) Prior to the employment by the educational service district board of a new educational service district superintendent, the review committee shall screen all applicants for the position and recommend to the board a list of three candidates. The educational service district board shall select the new superintendent from the list of three candidates or shall reject the entire list and request the review committee to submit three additional candidates, and the educational service district board shall repeat this process until a superintendent is selected. [1985 c 341 § 7; 1977 ex.s. c 283 § 4. Formerly RCW 28A.21.071.]

Severability—1977 ex.s. c 283: See note following RCW 28A.310.010.

28A.310.180 ESD board—Compliance with rules and regulations—Depository and distribution center—Cooperative service programs, joint purchasing programs, and direct student service programs including pupil transportation. In addition to other powers and duties as provided by law, every educational service district board shall:

(1) Comply with rules or regulations of the state board of education and the superintendent of public instruction.

(2) If the district board deems necessary, establish and operate for the schools within the boundaries of the educational service district a depository and distribution center for films, tapes, charts, maps, and other instructional material as recommended by the school district superintendents within the service area of the educational service district: PROVIDED, That the district may also provide the services of the depository and distribution center to private schools within the district so long as such private schools pay such

fees that reflect actual costs for services and the use of instructional materials as may be established by the educational service district board.

(3) Establish cooperative service programs for school districts within the educational service district and joint purchasing programs for schools within the educational service district pursuant to RCW 28A.320.080(3): PROVIDED, That on matters relating to cooperative service programs the board and superintendent of the educational service district shall seek the prior advice of the superintendents of local school districts within the educational service district.

(4) Establish direct student service programs for school districts within the educational service district including pupil transportation. However, for the provision of state-funded pupil transportation for special education cooperatives programs for special education conducted under RCW 28A.155.010 through 28A.155.100, the educational service district, with the consent of the participating school districts, shall be entitled to receive directly state apportionment funds for that purpose: PROVIDED, That the board of directors and superintendent of a local school district request the educational service district to perform said service or services: PROVIDED FURTHER, That the educational service district board of directors and superintendents agree to provide the requested services: PROVIDED, FURTHER, That the provisions of chapter 39.34 RCW are strictly adhered to: PROVIDED FURTHER, That the educational service district board of directors may contract with the school for the deaf and the school for the blind to provide transportation services. [1990 c 33 § 276; 1988 c 65 § 2; 1987 c 508 § 3; 1982 c 46 § 1; 1979 ex.s. c 66 § 1; 1975 1st ex.s. c 275 § 16; 1971 ex.s. c 282 § 11. Formerly RCW 28A.21.086.]

Severability—1979 ex.s. c 66: "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." [1979 ex.s. c 66 § 3.]

Severability—1971 ex.s. c 282: See note following RCW 28A.310.010.

28A.310.190 ESD board—Teachers' institutes, directors' meetings—Cooperation with state supervisor—Certification of data. In addition to other powers and duties as provided by law, every educational service district board shall:

(1) If the district board deems necessary, hold each year one or more teachers' institutes as provided for in RCW 28A.415.010 and one or more school directors' meetings.

(2) Cooperate with the state supervisor of special aid for handicapped children as provided in RCW 28A.155.010 through 28A.155.100.

(3) Certify statistical data as basis for apportionment purposes to county and state officials as provided in chapter 28A.545 RCW.

(4) Perform such other duties as may be prescribed by law or rule or regulation of the state board of education and/or the superintendent of public instruction as provided in RCW 28A.300.030 and 28A.305.210. [1990 c 33 § 277; 1983 c 56 § 2; 1981 c 103 § 2; 1975 1st ex.s. c 275 § 17; 1971 ex.s. c 282 § 12. Formerly RCW 28A.21.088.]

Severability—1983 c 56: See note following RCW 28A.195.010.

Severability—1971 ex.s. c 282: See note following RCW 28A.310.010.

28A.310.200 ESD board—District budgets—Meetings—Personnel approval—Employee bonds—School district boundary transcripts—Acquisition and disposal of property—Bylaws, regulations—Contractual authority. In addition to other powers and duties as provided by law, every educational service district board shall:

(1) Approve the budgets of the educational service district in accordance with the procedures provided for in this chapter.

(2) Meet regularly according to the schedule adopted at the organization meeting and in special session upon the call of the chair or a majority of the board.

(3) Approve the selection of educational service district personnel and clerical staff as provided in RCW 28A.310.230.

(4) Fix the amount of and approve the bonds for those educational service district employees designated by the board as being in need of bonding.

(5) Keep in the educational service district office a full and correct transcript of the boundaries of each school district within the educational service district.

(6) Acquire by borrowing funds or by purchase, lease, devise, bequest, and gift and otherwise contract for real and personal property necessary for the operation of the educational service district and to the execution of the duties of the board and superintendent thereof and sell, lease, or otherwise dispose of that property not necessary for district purposes. No real property shall be acquired or alienated without the prior approval of the state board of education and the acquisition or alienation of all such property shall be subject to such provisions as the board may establish. When borrowing funds for the purpose of acquiring property, the educational service district board shall pledge as collateral the property to be acquired. Borrowing shall be evidenced by a note or other instrument between the district and the lender. The authority to borrow under this subsection shall be limited to educational service districts serving a minimum of two hundred thousand students in grades kindergarten through twelve.

(7) Adopt such bylaws and rules and regulations for its own operation as it deems necessary or appropriate.

(8) Enter into contracts, including contracts with common and educational service districts and the school for the deaf and the school for the blind for the joint financing of cooperative service programs conducted pursuant to RCW 28A.310.180(3), and employ consultants and legal counsel relating to any of the duties, functions, and powers of the educational service districts. [1990 c 159 § 1; 1990 c 33 § 278; 1988 c 65 § 3; 1983 c 56 § 3; 1975 1st ex.s. c 275 § 18; 1971 ex.s. c 282 § 13; 1971 c 53 § 1; 1969 ex.s. c 176 § 9. Formerly RCW 28A.21.090, 28.19.540.]

Reviser's note: This section was amended by 1990 c 33 § 278 and by 1990 c 159 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability—1983 c 56: See note following RCW 28A.195.010.

Severability—1971 ex.s. c 282: See note following RCW 28A.310.010.

Severability—1971 c 53: See note following RCW 28A.315.400.

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.310.210 ESD board—Payment of member expenses—Payment of dues into state-wide association of board members, restrictions. In addition to other powers and duties prescribed by law every educational service district board shall be authorized to:

(1) Pay the expenses of its members in accordance with law for attendance at state-wide meetings of educational service district board members.

(2) Pay dues from educational service district funds in an amount not to exceed one hundred dollars per board member per year for membership in a state-wide association of educational service district board members: PROVIDED, That dues to such an association shall not be paid unless the formation of such an association, including its constitution and bylaws, is approved by a resolution passed by at least two-thirds of the educational service district boards within the state: PROVIDED FURTHER, That such association if formed shall not employ any staff but shall contract either with the Washington state school directors' association or with the superintendent of public instruction for staff and informational services. [1975 1st ex.s. c 275 § 19; 1971 ex.s. c 282 § 14. Formerly RCW 28A.21.092.]

Severability—1971 ex.s. c 282: See note following RCW 28A.310.010.

28A.310.220 ESD board—Delegation of powers and duties to superintendent. Each educational service district board, by written order filed in the headquarters office, may delegate to the educational service district superintendent any of the powers and duties vested in or imposed upon the board by law or rule or regulation of the state board of education and/or the superintendent of public instruction. Such delegated powers and duties shall not be in conflict with rules or regulations of the superintendent of public instruction or the state board of education and may be exercised by the educational service district superintendent in the name of the board. [1975 1st ex.s. c 275 § 20; 1974 ex.s. c 75 § 9; 1971 ex.s. c 282 § 15. Formerly RCW 28A.21.095.]

Severability—1974 ex.s. c 75: See note following RCW 28A.310.030.

Severability—1971 ex.s. c 282: See note following RCW 28A.310.010.

28A.310.230 Assistant superintendents and other personnel—Appointment, salaries, duties. The educational service district superintendent may appoint with the consent of the educational service district board assistant superintendents and such other professional personnel and clerical help as may be necessary to perform the work of the office at such salaries as may be determined by the educational service district board and shall pay such salaries out of the budget of the district. In the absence of the educational service district superintendent a designated assistant superintendent shall perform the duties of the office. The educational service district superintendent shall have the authority to appoint on an acting basis an assistant superintendent to perform any of the duties of the office. [1975 1st ex.s. c

275 § 21; 1974 ex.s. c 75 § 10; 1971 ex.s. c 282 § 16; 1969 ex.s. c 176 § 10. Formerly RCW 28A.21.100, 28.19.545.]

Severability—1974 ex.s. c 75: See note following RCW 28A.310.030.

Severability—1971 ex.s. c 282: See note following RCW 28A.310.010.

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.310.010.

Job sharing: RCW 28A.405.070.

28A.310.240 Employee leave policy required. (1) Every educational service district board shall adopt written policies granting leaves to persons under contracts of employment with the district 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, with such compensation as the board prescribes. The board shall adopt written policies granting annual leave with compensation for illness, injury, and emergencies as follows:

(a) For persons under contract with the district for a full fiscal year, at least ten days;

(b) For persons under contract with the 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 fiscal year. Provisions of any contract in force on July 23, 1989, 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 the person would have received had the person not taken the leave provided in this section;

(e) Leave provided in this section not taken shall accumulate from fiscal year to fiscal year up to a maximum of one hundred eighty days for the purposes of RCW 28A.310.490, and for leave purposes up to a maximum of the number of contract days agreed to in a given contract, but not greater than one fiscal year. Such accumulated time may be taken at any time during the fiscal year, or up to twelve days per year may be used for the purpose of payments for unused sick leave; and

(f) Accumulated leave under this section shall be transferred to educational service districts, school districts, and the office of the superintendent of public instruction, and from any such district or office to another such district or office. An intervening customary summer break in employment or the performance of employment duties shall not preclude such a transfer.

(2) Leave accumulated by a person in a district prior to leaving the district may, under rules of the board, be granted to the person when the person returns to the employment of the district.

(3) Leave for illness or injury accumulated before July 23, 1989, under the administrative practices of an educational service district, and such leave transferred before July 23, 1989, to or from an educational service district, school district, or the office of the superintendent of public instruction under the administrative practices of the district or office, is declared valid and shall be added to such leave for illness or injury accumulated after July 23, 1989. [1990 c 33 § 279; 1989 c 208 § 1. Formerly RCW 28A.21.102.]

28A.310.250 Certificated employees of district—Contracts of employment—Nonrenewal of contracts. No certificated employee of an educational service district shall be employed as such except by written contract, which shall be in conformity with the laws of this state. Every such contract shall be made in duplicate, one copy of which shall be retained by the educational service district superintendent and the other shall be delivered to the employee.

Every educational service district superintendent or board determining that there is probable cause or causes that the employment contract of a certificated employee thereof is not to be renewed for the next ensuing term shall be notified in writing on or before May 15th preceding the commencement of such term of that determination, which notification shall specify the cause or causes for nonrenewal of contract. Such notice shall be served upon that employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein. The procedure and standards for the review of the decision of the hearing officer, superintendent or board and appeal therefrom shall be as prescribed for nonrenewal cases of teachers in RCW 28A.405.210, 28A.405.300 through 28A.405.380, and 28A.645.010. Appeals may be filed in the superior court of any county in the educational service district. [1990 c 33 § 280; 1977 ex.s. c 283 § 7; 1975 1st ex.s. c 275 § 22; 1974 ex.s. c 75 § 11; 1971 c 48 § 6; 1969 ex.s. c 34 § 19. Formerly RCW 28A.21.105.]

Severability—1977 ex.s. c 283: See note following RCW 28A.310.010.

Severability—1974 ex.s. c 75: See note following RCW 28A.310.030.

Severability—1971 c 48: See note following RCW 28A.305.040.

28A.310.260 Certificated employees of district—Adverse change in contract status—Notice—Probable cause—Review—Appeal. Every educational service district superintendent or board determining that there is probable cause or causes for a certificated employee or superintendent, hereinafter referred to as employee, of that educational service district to be discharged or otherwise adversely affected in his or her contract status shall notify such employee in writing of its decision, which notice shall specify the cause or causes for such action. Such notice shall be served upon that employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein. The procedure and standards for review of the decision of the superintendent or board and appeal therefrom shall be as prescribed in discharge cases of teachers in RCW

28A.405.210, 28A.405.300 through 28A.405.380, and 28A.645.010. The board and the educational service district superintendent, respectively, shall have the duties of the boards of directors and superintendents of school districts in RCW 28A.405.210, 28A.405.300 through 28A.405.380, and 28A.645.010. Appeals may be filed in the superior court of any county in the educational service district. [1990 c 33 § 281; 1977 ex.s. c 283 § 8; 1975 1st ex.s. c 275 § 23; 1974 ex.s. c 75 § 12; 1971 c 48 § 7; 1969 ex.s. c 34 § 20. Formerly RCW 28A.21.106.]

Severability—1977 ex.s. c 283: See note following RCW 28A.310.010.

Severability—1974 ex.s. c 75: See note following RCW 28A.310.030.

Severability—1971 c 48: See note following RCW 28A.305.040.

28A.310.270 ESD superintendent's powers and duties—Generally. In addition to other powers and duties as provided by law, each educational service district superintendent shall:

(1) Serve as chief executive officer of the educational service district and secretary of the educational service district board.

(2) Visit the schools in the educational service district, counsel with directors and staff, and assist in every possible way to advance the educational interest in the educational service district. [1975 1st ex.s. c 275 § 24; 1974 ex.s. c 75 § 13; 1972 ex.s. c 3 § 1; 1971 ex.s. c 282 § 17; 1969 ex.s. c 176 § 11. Formerly RCW 28A.21.110, 28.19.550.]

Severability—1974 ex.s. c 75: See note following RCW 28A.310.030.

Severability—1971 ex.s. c 282: See note following RCW 28A.310.010.

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.310.280 ESD superintendent's powers and duties—Records and reports. In addition to other powers and duties as provided by law, each educational service district superintendent shall:

(1) Perform such record keeping, including such annual reports as may be required, and liaison and informational services to local school districts and the superintendent of public instruction as required by rule or regulation of the superintendent of public instruction or state board of education: PROVIDED, That the superintendent of public instruction and the state board of education may require some or all of the school districts to report information directly when such reporting procedures are deemed desirable or feasible.

(2) Keep records of official acts of the educational service district board and superintendents in accordance with RCW 28A.21.120, as now or hereafter amended.

(3) Preserve carefully all reports of school officers and teachers and deliver to the successor of the office all records, books, documents, and papers belonging to the office either personally or through a personal representative, taking a receipt for the same, which shall be filed in the office of the county auditor in the county where the office is located. [1975 1st ex.s. c 275 § 25; 1974 ex.s. c 75 § 14. Formerly RCW 28A.21.111.]

Severability—1974 ex.s. c 75: See note following RCW 28A.310.030.

28A.310.290 ESD superintendent's powers and duties—Oaths and affirmations. In addition to other powers and duties as provided by law, each educational service district superintendent shall:

(1) Administer oaths and affirmations to school directors, teachers, and other persons on official matters connected with or relating to schools, when appropriate, but not make or collect any charge or fee for so doing.

(2) Require the oath of office of all school district officers be filed as provided in RCW 28A.315.500 and furnish a directory of all such officers to the county auditor and to the county treasurer of the county in which the school district is located as soon as such information can be obtained after the election or appointment of such officers is determined and their oaths placed on file. [1990 c 33 § 282; 1975 1st ex.s. c 275 § 26; 1974 ex.s. c 75 § 15. Formerly RCW 28A.21.112.]

Severability—1974 ex.s. c 75: See note following RCW 28A.310.030.

28A.310.300 ESD superintendent's powers and duties—School district budgets—Compulsory attendance—Aid by nonhigh districts—School district organization. In addition to other powers and duties as provided by law, each educational service district superintendent shall:

(1) Assist the school districts in preparation of their budgets as provided in chapter 28A.505 RCW.

(2) Enforce the provisions of the compulsory attendance law as provided in RCW 28A.225.010 through 28A.225.150, 28A.200.010, and 28A.200.020.

(3) Perform duties relating to capital fund aid by nonhigh districts as provided in chapter 28A.540 RCW.

(4) Carry out the duties and issue orders creating new school districts and transfers of territory as provided in chapter 28A.315 RCW.

(5) Perform all other duties prescribed by law and the educational service district board. [1990 c 33 § 283; 1975 1st ex.s. c 275 § 27; 1974 ex.s. c 75 § 16. Formerly RCW 28A.21.113.]

Severability—1974 ex.s. c 75: See note following RCW 28A.310.030.

28A.310.310 Headquarters office—Records transferred, state board duties. The educational service district board shall designate the headquarters office of the educational service district. Educational service districts shall provide for their own office space, heating, contents insurance, electricity, and custodial services, which may be obtained through contracting with any board of county commissioners. Official records of the educational service district board and superintendent, including each of the county superintendents abolished by chapter 176, Laws of 1969 ex. sess., shall be kept by the educational service district superintendent. Whenever the boundaries of any of the educational service districts are reorganized pursuant to RCW 28A.310.020, the state board of education shall supervise the transferral of such records so that each educational service district superintendent shall receive those records relating to school districts within the appropriate

educational service district. [1990 c 33 § 284; 1985 c 341 § 8; 1975 1st ex.s. c 275 § 28; 1974 ex.s. c 75 § 17; 1971 ex.s. c 282 § 18; 1969 ex.s. c 176 § 12. Formerly RCW 28A.21.120, 28.19.555.]

Severability—1974 ex.s. c 75: See note following RCW 28A.310.030.

Severability—1971 ex.s. c 282: See note following RCW 28A.310.010.

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.310.320 ESD superintendents, employees—Travel expenses and subsistence—Advance payment. For all actual and necessary travel in the performance of official duties and while in attendance upon meetings and conferences, each educational service district superintendent and employee shall be reimbursed for their travel expenses in the amounts provided in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. All claims shall be approved by the educational service district board and paid from the funds budgeted by the district. Each educational service district superintendent and employee may be advanced sufficient sums to cover their anticipated expenses in accordance with rules and regulations promulgated by the state auditor and which shall substantially conform to the procedures provided in RCW 43.03.150 through 43.03.210. [1975-'76 2nd ex.s. c 34 § 69; 1975 1st ex.s. c 275 § 29; 1971 ex.s. c 282 § 19; 1969 ex.s. c 176 § 13. Formerly RCW 28A.21.130, 28.19.560.]

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

Severability—1971 ex.s. c 282: See note following RCW 28A.310.010.

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.310.330 Budgeting procedures for districts. The superintendent of public instruction by rule and regulation shall adopt budgeting procedures for educational service districts modeled after the statutory procedures for school districts as provided in chapter 28A.505 RCW and in accordance with RCW 28A.310.340, 28A.310.350, and 28A.310.360. [1990 c 33 § 285; 1977 ex.s. c 283 § 12; 1975 1st ex.s. c 275 § 30; 1971 ex.s. c 282 § 20. Formerly RCW 28A.21.135.]

Severability—1977 ex.s. c 283: See note following RCW 28A.310.010.

Severability—1971 ex.s. c 282: See note following RCW 28A.310.010.

28A.310.340 Identification of core services for budget purposes—Generally. It is the intent of the legislature that a basic core of uniform services be provided by educational service districts and be identified in statute so that biennial budget requests for educational service districts may be based upon measurable goals and needs. Educational service districts as noted in RCW 28A.310.010, are intended primarily to:

(1) Provide cooperative and informational services to local districts and to perform functions for those districts when such functions are more effectively or economically administered from the regional level;

(2) Assist the state educational agencies, office of superintendent of public instruction and the state board of education in the legal performance of their duties; and

(3) Assist in providing pupils with equal educational opportunities.

The purpose of RCW 28A.310.350 and 28A.310.360 is to further identify those core services in order to prepare educational service district budgets for the 1979-81 biennium, and those bienniums beyond. [1990 c 33 § 286; 1977 ex.s. c 283 § 9. Formerly RCW 28A.21.136.]

Severability—1977 ex.s. c 283: See note following RCW 28A.310.010.

28A.310.350 Identification of core services for budget purposes—Specific services listed. The basic core services and cost upon which educational service districts are budgeted shall include, but not be limited to, the following:

(1) Educational service district administration and facilities such as office space, maintenance and utilities;

(2) Cooperative administrative services such as assistance in carrying out procedures to abolish sex and race bias in school programs, fiscal services, grants management services, special education services and transportation services;

(3) Personnel services such as certification/registration services;

(4) Learning resource services such as audio visual aids;

(5) Cooperative curriculum services such as health promotion and health education services, in-service training, workshops and assessment; and

(6) Special needs of local education agencies. [1977 ex.s. c 283 § 10. Formerly RCW 28A.21.137.]

Severability—1977 ex.s. c 283: See note following RCW 28A.310.010.

28A.310.360 Identification of core services for budget purposes—Formula utilized for ESD's biennial budget request. The superintendent of public instruction, pursuant to RCW 28A.310.330 shall prepare the biennial budget request for the operation of educational service districts based upon a formula using the following factors:

(1) The core service cost itemized in RCW 28A.310.350 which shall receive primary weighting for formula purposes;

(2) A weighting factor constituting a geographical factor which shall be used to weight the larger sized educational service districts for formula purposes; and

(3) A weighting factor which shall be based on the number and size of local school districts within each educational service district for formula purposes.

The sum of subsection (1) of this section, together with the weighting factors of subsections (2) and (3) of this section for each educational service district, shall reflect the variables among the educational service districts and when combined, a total budget for all educational service districts shall be the result. [1990 c 33 § 287; 1977 ex.s. c 283 § 11. Formerly RCW 28A.21.138.]

Severability—1977 ex.s. c 283: See note following RCW 28A.310.010.

28A.310.370 District budget—State funds, allocation of—District general expense fund—Created, deposits,

expenditures. The superintendent of public instruction shall examine and revise the biennial budget request of each educational service district and shall fix the amount to be requested in state funds for the educational service district system from the legislature. Once funds have been appropriated by the legislature, the superintendent of public instruction shall fix the annual budget of each educational service district and shall allocate quarterly the state's portion from funds appropriated for that purpose to the county treasurer of the headquarters county of the educational service district for deposit to the credit of the educational service district general expense fund.

In each educational service district, there shall be an educational service district general expense fund into which there shall be deposited such moneys as are allocated by the superintendent of public instruction under provisions of this chapter and other funds of the educational service district, and such moneys shall be expended according to the method used by first or second class school districts, whichever is deemed most feasible by the educational service district board. No vouchers for warrants other than moneys being distributed to the school districts shall be approved for expenditures not budgeted by the educational service district board. [1983 c 56 § 4; 1975 1st ex.s. c 275 § 31; 1971 ex.s. c 282 § 22; 1969 ex.s. c 176 § 14. Formerly RCW 28A.21.140, 28.19.565.]

Severability—1983 c 56: See note following RCW 28A.195.010.

Severability—1971 ex.s. c 282: See note following RCW 28A.310.010.

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.310.380 Funds combined into district general expense fund—Distribution formula when county part of more than one district—Distribution if change of district boundaries. All funds under the control of the office of each educational service district shall be combined into the educational service district general expense fund and deposited in the office of the county treasurer of the county in which the educational service district headquarters office is located. The superintendent of public instruction, by rule or regulation, shall provide by an established formula for the proper distribution of moneys received from the county current expense fund, the county institute fund, and the county circulating library fund in those counties which are a part of two or more educational service districts. In case the boundaries of any of the educational service districts are changed, the superintendent of public instruction shall order an equitable transfer of such funds from one educational service district to another which the superintendent of public instruction deems necessary to adjust for the increase and decrease in the operating costs of the respective districts for the balance of the fiscal year and shall certify to the county commissioners of the affected counties a new ratio for the appropriation of funds to the general expense funds of two or more educational service districts under *RCW 28A.21.180, as now or hereafter amended. [1975 1st ex.s. c 275 § 32; 1971 ex.s. c 282 § 23; 1969 ex.s. c 176 § 16. Formerly RCW 28A.21.160, 28.19.575.]

*Reviser's note: RCW 28A.21.180 was repealed by 1983 c 56 § 16.

Severability—1971 ex.s. c 282: See note following RCW 28A.310.010.

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.310.390 District budget request—Procedure for approval. The biennial budget request of each educational service district shall be approved by the respective educational service district board and then forwarded to the superintendent of public instruction for revision and approval as provided in RCW 28A.310.370. [1990 c 33 § 288; 1975 1st ex.s. c 275 § 33; 1971 ex.s. c 282 § 21; 1969 ex.s. c 176 § 17. Formerly RCW 28A.21.170, 28.19.580.]

Severability—1971 ex.s. c 282: See note following RCW 28A.310.010.

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.310.400 Legal services. The superintendent of public instruction shall be responsible for the provision of legal services to all educational service districts: PROVIDED, That any educational service district board may contract with any county for the legal services of its prosecuting attorney. [1975 1st ex.s. c 275 § 35; 1974 ex.s. c 75 § 23. Formerly RCW 28A.21.195.]

Severability—1974 ex.s. c 75: See note following RCW 28A.310.030.

28A.310.410 Ex officio treasurer of district. The county treasurer of the county in which the headquarters office of the educational service district is located shall serve as the ex officio treasurer of the district. The treasurer shall keep all funds and moneys of the district separate and apart from all other funds and moneys in the treasurer's custody and shall disburse such moneys only upon proper order of the educational service district board or superintendent. [1990 c 33 § 289; 1975 1st ex.s. c 275 § 36; 1969 ex.s. c 176 § 21. Formerly RCW 28A.21.200, 28.19.595.]

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.310.420 County or intermediate district superintendent and board employees to terminate or transfer employment—Benefits retained. As of July 1, 1969, employees of the various offices of county or intermediate district superintendent and county or intermediate district board shall terminate their employment therein, or such employees, at their election, may transfer their employment to the new intermediate school district in which their respective county is located. If such employment is so transferred, each employee shall retain the same leave benefits and other benefits that he or she had in his or her previous position. If the intermediate school district has a different system of computing leave benefits and other benefits, then the employee shall be granted the same leave and other benefits as a person will receive who would have had similar occupational status and total years of service with the new intermediate school district. [1990 c 33 § 290; 1969 ex.s. c 176 § 22. Formerly RCW 28A.21.210, 28.19.600.]

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.310.430 Local school district superintendents to advise board and superintendent. The superintendents of all local school districts within an educational service district shall serve in an advisory capacity to the educational service district board and superintendent in matters pertaining to budgets, programs, policy, and staff. [1975 1st ex.s. c 275 § 37; 1971 ex.s. c 282 § 28; 1969 ex.s. c 176 § 23. Formerly RCW 28A.21.220, 28.19.605.]

Severability—1971 ex.s. c 282: See note following RCW 28A.310.010.

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.310.440 ESD as self-insurer—Authority. The board of directors of any educational service district is authorized to enter into agreements with the board of directors of any local school district and/or other educational service districts to form a self-insurance group for the purpose of qualifying as a self-insurer under chapter 51.14 RCW. [1982 c 191 § 9. Formerly RCW 28A.21.255.]

Effective date—Severability—1982 c 191: See notes following RCW 28A.315.270.

Educational service districts as self-insurers: RCW 51.14.150 and 51.14.160.

28A.310.460 Contracts to lease building space and portable buildings and lease or have maintained security systems, computers and other equipment. The board of any educational service district may enter into contracts for their respective districts for periods not exceeding twenty years in duration with public and private persons, organizations, and entities for the following purposes:

(1) To rent or lease building space, portable buildings, security systems, computers and other equipment; and

(2) To have maintained and repaired security systems, computers and other equipment.

The budget of each educational service district shall identify that portion of each contractual liability incurred pursuant to this section extending beyond the fiscal year by amount, duration, and nature of the contracted service and/or item in accordance with rules and regulations of the superintendent of public instruction adopted pursuant to RCW 28A.310.330 and 28A.505.140. [1990 c 33 § 291; 1987 c 508 § 2; 1977 ex.s. c 210 § 2. Formerly RCW 28A.21.310.]

Severability—1977 ex.s. c 210: See note following RCW 28A.335.170.

28A.310.470 Delegation to ESD of SPI program, project or service—Contract. The superintendent of public instruction may delegate to any educational service district or combination of educational service districts all or any portion of a program, project, or service authorized or directed by the legislature to be performed by the superintendent of public instruction: PROVIDED, That any such delegation shall be by contract pursuant to chapter 39.34 RCW, as now or hereafter amended. [1977 ex.s. c 283 § 5. Formerly RCW 28A.21.350.]

Severability—1977 ex.s. c 283: See note following RCW 28A.310.010.

28A.310.480 Delegation to ESD of state board of education program, project or service—Contract. The

state board of education may delegate to any educational service district or combination of educational service districts all or any portion of a program, project, or service authorized or directed by the legislature to be performed by the state board of education: PROVIDED, That any such delegation shall be by contract pursuant to chapter 39.34 RCW, as now or hereafter amended. [1977 ex.s. c 283 § 6. Formerly RCW 28A.21.355.]

Severability—1977 ex.s. c 283: See note following RCW 28A.310.010.

28A.310.490 ESD employee attendance incentive program—Remuneration or benefit plan 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.

(1) 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. 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.

(2) 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.

(3) In lieu of remuneration for unused leave for illness or injury as provided for in subsections (1) and (2) of this section, an educational service district board of directors may, with equivalent funds, provide eligible employees a benefit plan that provides reimbursement for medical expenses. Any benefit plan adopted after July 28, 1991, shall require, as a condition of participation under the plan, that the employee sign an agreement with the district to hold the district harmless should the United States government find that the district or the employee is in debt to the United States as a result of the employee not paying income taxes due on the equivalent funds placed into the plan, or as a result of the district not withholding or deducting any tax, assessment, or other payment on such funds as required under federal law.

Moneys or benefits 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.

[1991 c 92 § 1; 1989 c 69 § 1; 1985 c 341 § 9; 1980 c 182 § 6. Formerly RCW 28A.21.360.]

Severability—1980 c 182: See note following RCW 41.04.340.

Chapter 28A.315

ORGANIZATION AND REORGANIZATION OF SCHOOL DISTRICTS

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28A.315.010 Purpose. It is the intent and purpose of this chapter (1) to incorporate into a single, permanent,

school district organization law all essential provisions governing the formation and establishment of new school districts, the alteration of the boundaries of existing districts, and the adjustment of the assets and liabilities of school districts when changes are made as aforesaid; and (2) to establish methods and procedures whereby the aforesaid changes in the school district system may be brought about by the people concerned and affected, all to the end that the territorial organization of school districts may be more readily adapted to the needs of the changing economic pattern and educational program in the state; that existing disparities among school districts in ability to provide current and capital outlay funds may be reduced and the educational opportunities of children thereby enhanced; and that a wiser use of public funds may be secured through improvement in the school district system. It is not the intent nor purpose of this chapter to apply to organizational changes and the procedure therefor relating to capital fund aid by nonhigh districts as provided for in chapter 28A.540 RCW. [1990 c 33 § 292; 1969 ex.s. c 223 § 28A.57.010. Prior: 1947 c 266 § 1; Rem. Supp. 1947 § 4693-20; prior: 1941 c 248 § 1; Rem. Supp. 1941 § 4709-1. Formerly RCW 28A.57.010, 28.57.010.]

28A.315.020 Definitions. As used in this chapter:

(1) "Change in the organization and extent of school districts" means the formation and establishment of new school districts, the dissolution of existing school districts, the alteration of the boundaries of existing school districts, or all of them.

(2) "Regional committee" means the regional committee on school district organization created by this chapter.

(3) "State board" means the state board of education.

(4) "School district" means the territory under the jurisdiction of a single governing board designated and referred to as the board of directors.

(5) "Educational service district superintendent" means the educational service district superintendent as provided for in RCW 28A.310.170 or his or her designee. [1990 c 33 § 293; 1985 c 385 § 1; 1983 c 3 § 33; 1975 1st ex.s. c 275 § 78; 1971 c 48 § 25; 1969 ex.s. c 223 § 28A.57.020. Prior: 1955 c 395 § 1; 1947 c 266 § 2; Rem. Supp. 1947 § 4693-21. Formerly RCW 28A.57.020, 28.57.020.]

Severability—1985 c 385: "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." [1985 c 385 § 41.]

Severability—1971 c 48: See note following RCW 28A.305.040.

28A.315.030 County committee members to act as temporary regional committee members—Election of initial regional committee. Notwithstanding any other provision of this chapter to the contrary, those persons who were county committee members and registered to vote as of July 28, 1985, shall constitute the regional committee of the educational service district within which they are registered to vote until the election of the initial regional committee pursuant to this section. The initial election of members of each regional committee shall be by those persons who were county committee members registered to vote within the educational service district as of July 28, 1985. Only persons who were county committee members and so

registered to vote as of July 28, 1985, shall be eligible for membership on an initial regional committee, and only those persons who are eligible for such membership and are in attendance at a meeting held for the purpose of the election shall be entitled to cast a vote. The meeting shall be held at a time and place designated and announced by the educational service district superintendent, but no later than the thirtieth day after July 28, 1985. The educational service district superintendent shall preside over the meeting. Nominations shall be from the floor and shall be for position numbers assigned by the educational service district superintendent for the purpose of the initial election and all subsequent elections held pursuant to RCW 28A.315.060. Members of each initial regional committee shall be elected by majority vote and shall serve for the staggered terms of office set forth in RCW 28A.315.060 and until their successors are certified as elected pursuant to RCW 28A.315.060. [1990 c 33 § 294; 1985 c 385 § 30. Formerly 28A.57.029.]

Severability—1985 c 385: See note following RCW 28A.315.020.

28A.315.040 Regional committees—Created. There is hereby created in each educational service district a committee which shall be known as the regional committee on school district organization, which committee shall be composed of not less than seven nor more than nine registered voters of the educational service district, the number to correspond with the number of board member districts established for the governance of the educational service district in which the regional committee is located. One member of the regional committee shall be elected from the registered voters of each such educational service district board member district. [1985 c 385 § 2; 1969 ex.s. c 223 § 28A.57.030. Prior: 1947 c 266 § 11, part; Rem. Supp. 1947 § 4693-30, part; prior: 1941 c 248 § 3, part; Rem. Supp. 1941 § 4709-3, part. Formerly RCW 28A.57.030, 28.57.030, part.]

Severability—1985 c 385: See note following RCW 28A.315.020.

28A.315.050 Regional committees—Membership limitation. Persons possessing the status of any of the following positions shall not be eligible to be a member of a regional committee: The superintendent of public instruction, a member of the state board of education, an educational service district superintendent, a member of a board of directors of a school district, a member of an educational service district board, a member of a governing board of either a private school or a private school district which conducts any grades kindergarten through twelve, officers appointed by any such governing board, and employees of a school district, an educational service district, the office of the superintendent of public instruction, a private school, or a private school district. [1985 c 385 § 3; 1975 1st ex.s. c 275 § 79; 1969 ex.s. c 176 § 115; 1969 ex.s. c 223 § 28A.57.031. Prior: 1947 c 226 § 11, part; Rem. Supp. 1947 § 4693-30, part; prior: 1941 c 248 § 3, part; Rem. Supp. 1941 § 4709-3, part. Formerly RCW 28A.57.031, 28.57.030, part.]

Severability—1985 c 385: See note following RCW 28A.315.020.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.315.060 Regional committees—Election of members—Qualifications. The members of each regional committee shall be elected in the following manner:

(1) On or before the 25th day of September, 1986, and not later than the 25th day of September of every subsequent year, each superintendent of an educational service district shall call an election to be held in each educational service district within which resides a member of a regional committee whose term of office expires on the second Monday of January next following, and shall give written notice thereof to each member of the board of directors of each school district in the educational service district. Such notice shall include instructions, and the rules and regulations established by the state board of education for the conduct of the election. The state board of education is hereby empowered to adopt rules pursuant to chapter 34.05 RCW which establish standards and procedures which the state board deems necessary to conduct elections pursuant to this section; to conduct run-off elections in the event an election for a position is indecisive; and to decide run-off elections which result in tie votes, in a fair and orderly manner.

(2) Candidates for membership on a regional committee shall file a declaration of candidacy with the superintendent of the educational service district wherein they reside. Declarations of candidacy may be filed by person or by mail not earlier than the 1st day of October, and not later than the 15th day of October. The superintendent may not accept any declaration of candidacy that is not on file in his or her office or not postmarked before the 16th day of October, or if not postmarked or the postmark is not legible, if received by mail after the 20th day of October.

(3) Each member of the regional committee shall be elected by a majority of the votes cast for all candidates for the position by the members of the boards of directors of school districts in the educational service district. All votes shall be cast by mail ballot addressed to the superintendent of the educational service district wherein the school director resides. No votes shall be accepted for counting if postmarked after the 16th day of November or if not postmarked or the postmark is not legible, if received by mail after the 21st day of November. An election board comprised of three persons appointed by the board of the educational service district shall count and tally the votes not later than the 25th day of November or the next business day if the 25th falls on a Saturday, Sunday, or legal holiday. Each vote cast by a school director shall be recorded as one vote. Within ten days following the count of votes, the educational service district superintendent shall certify to the superintendent of public instruction the name or names of the person(s) elected to be members of the regional committee.

(4) In the event of a change in the number of educational service districts or in the number of educational service district board members pursuant to chapter 28A.310 RCW a new regional committee shall be elected for each affected educational service district at the next annual election conducted pursuant to this section. Those persons who were serving on a regional committee within an educational service district affected by a change in the number of districts or board members shall continue to constitute the regional committee for the educational service district within which they are registered to vote until the majority of a new board has been elected and certified.

(5) No member of a regional committee shall continue to serve thereon if he or she ceases to be a registered voter of the educational service district board member district or if he or she is absent from three consecutive meetings of the committee without an excuse acceptable to the committee. [1990 c 33 § 295; 1985 c 385 § 4; 1975-'76 2nd ex.s. c 15 § 1. Prior: 1975 1st ex.s. c 275 § 80; 1975 c 43 § 3; 1969 ex.s. c 176 § 116; 1969 ex.s. c 223 § 28A.57.032; prior: 1947 c 226 § 11, part; Rem. Supp. 1947 § 4693-30, part; prior: 1941 c 248 § 3, part; Rem. Supp. 1941 § 4709-3, part. Formerly RCW 28A.57.032, 28.57.030, part.]

Severability—1985 c 385: See note following RCW 28A.315.020.

Effective date—Severability—1975 c 43: See notes following RCW 28A.315.230.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.315.070 Regional committees—Vacancies, filling of. In case of a vacancy from any cause on a regional committee, the remaining members of the committee shall fill such vacancy by appointment pursuant to a majority vote of the remaining members: PROVIDED, That should there exist fewer members on a regional committee than constitutes a majority of the legally established committee member positions, the educational service district board members of the district in which the committee is located, by the vote of a majority of the members in its legally established number of board member positions, shall appoint a sufficient number of committee members to constitute a legal majority on the committee. Appointees to fill vacancies shall meet the requirements provided by law for committee members and shall serve until the next regular election for members of regional committees at which time a successor shall be elected for the balance of the unexpired term. [1985 c 385 § 5; 1975 1st ex.s. c 275 § 81; 1969 ex.s. c 176 § 117; 1969 ex.s. c 223 § 28A.57.033. Prior: 1947 c 266 § 11, part; Rem. Supp. 1947 § 4693-30, part; prior: 1941 c 248 § 3, part; Rem. Supp. 1941 § 4709-3, part. Formerly RCW 28A.57.033, 28.57.030, part.]

Severability—1985 c 385: See note following RCW 28A.315.020.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.315.080 Regional committees—Terms of members. The terms of members of the regional committees shall be for five years and until their successors are elected. As nearly as possible one-fifth of the members shall be elected annually. For the initial election conducted pursuant to RCW 28A.315.030 and the election of a new regional committee following a change in the number of educational service districts or board members, regional committee member positions one and six shall be for a term of five years, positions two and seven shall be for a term of four years, positions three and eight shall be for a term of three years, positions four and nine shall be for a term of two years, and position five shall be for a term of one year. [1990 c 33 § 296; 1985 c 385 § 6; 1969 ex.s. c 223 § 28A.57.034. Prior: 1947 c 226 § 11, part; Rem. Supp. 1947 § 4693-30, part; prior: 1941 c 248 § 3, part; Rem. Supp. 1941 § 4709-3, part. Formerly RCW 28A.57.034, 28.57.030, part.]

Severability—1985 c 385: See note following RCW 28A.315.020.

28A.315.090 Regional committees—Members' expenses reimbursed. Members of each regional committee shall serve without compensation but shall be reimbursed for expenses necessarily incurred in the performance of their duties. [1985 c 385 § 7; 1969 ex.s. c 176 § 118; 1969 ex.s. c 223 § 28A.57.035. Prior: 1947 c 266 § 11, part; Rem. Supp. 1947 § 4693-30, part; prior: 1941 c 248 § 3, part; Rem. Supp. 1941 § 4709-3, part. Formerly RCW 28A.57.035, 28.57.030, part.]

Severability—1985 c 385: See note following RCW 28A.315.020.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.315.100 Regional committees—Organization, meetings, quorum. Each regional committee shall organize by electing from its membership a chair and a vice chair. The educational service district superintendent shall be the secretary of the committee. Meetings of the committee shall be held upon call of the chair or of a majority of the members thereof. A majority of the committee shall constitute a quorum. [1990 c 33 § 297; 1985 c 385 § 8; 1975 1st ex.s. c 275 § 82; 1969 ex.s. c 176 § 119; 1969 ex.s. c 223 § 28A.57.040. Prior: 1947 c 266 § 12; Rem. Supp. 1947 § 4693-31; prior: 1941 c 248 § 4; Rem. Supp. 1941 § 4709-4. Formerly RCW 28A.57.040, 28.57.040.]

Severability—1985 c 385: See note following RCW 28A.315.020.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.315.110 Regional committees—Powers and duties. The powers and duties of each regional committee shall be:

(1) To initiate, on its own motion and whenever it deems such action advisable, proposals or alternate proposals for changes in the organization and extent of school districts in the educational service district; to receive, consider, and revise, whenever in its judgment revision is advisable, proposals initiated by petition or presented to the committee by the educational service district superintendent as provided for in this chapter; to prepare and submit to the state board any of the aforesaid proposals that are found by the regional committee to provide for satisfactory improvement in the school district system of the educational service district and state; to prepare and submit with the aforesaid proposals, a map showing the boundaries of existing school districts affected by any proposed change and the boundaries, including a description thereof, of each proposed new school district or of each existing school district as enlarged or diminished by any proposed change, or both, and a summary of the reasons for the proposed change; and such other reports, records, and materials as the state board may request. The committee may utilize as a basis of its proposals and changes that comprehensive plan for changes in the organization and extent of the school districts of the county prepared and submitted to the state board prior to September 1, 1956, or, if the then county committee found, after considering the factors listed in RCW 28A.315.120, that no changes in the school district organization of the county

were needed, the report to this effect submitted to the state board.

(2)(a) To make an equitable adjustment of the property and other assets and of the liabilities, including bonded indebtedness and excess tax levies as otherwise authorized under this section, as to the old school districts and the new district or districts, if any, involved in or affected by a proposed change in the organization and extent of the school districts; and (b) to make an equitable adjustment of the bonded indebtedness outstanding against any of the aforesaid districts whenever in its judgment such adjustment is advisable, as to all of the school districts involved in or affected by any change heretofore or hereafter effected; and (c) to provide that territory transferred from a school district by a change in the organization and extent of school districts shall either remain subject to, or be relieved of, any one or more excess tax levies which are authorized for the school district under RCW 84.52.053 before the effective date of the transfer of territory from the school district; and (d) to provide that territory transferred to a school district by a change in the organization and extent of school districts shall either be made subject to, or be relieved of, any one or more excess tax levies which are authorized for the school district under RCW 84.52.053 before the effective date of the transfer of territory to the school district; and (e) to submit to the state board the proposed terms of adjustment and a statement of the reasons therefor in each case. In making the adjustments herein provided for, the regional committee shall consider the number of children of school age resident in and the assessed valuation of the property located in each school district and in each part of a district involved or affected; the purpose for which the bonded indebtedness of any school district was incurred; the value, location, and disposition of all improvements located in the school districts involved or affected; and any other matters which in the judgment of the committee are of importance or essential to the making of an equitable adjustment.

(3) To hold and keep a record of a public hearing or public hearings (a) on every proposal for the formation of a new school district or for the transfer from one existing district to another of any territory in which children of school age reside or for annexation of territory when the conditions set forth in RCW 28A.315.290 or 28A.315.320 prevail; and (b) on every proposal for adjustment of the assets and of the liabilities of school districts provided for in this chapter. Three members of the regional committee or two members of the committee and the educational service district superintendent may be designated by the committee to hold any public hearing that the committee is required to hold. The regional committee shall cause notice to be given, at least ten days prior to the date appointed for any such hearing, in one or more newspapers of general circulation within the geographical boundaries of the school districts affected by the proposed change or adjustment. In addition notice may be given by radio and television, or either thereof, when in the committee's judgment the public interest will be served thereby.

(4) To prepare and submit to the superintendent of public instruction from time to time or, upon his or her request, reports and recommendations respecting the urgency of need for school plant facilities, the kind and extent of the facilities required, and the development of improved local

school administrative units and attendance areas in the case of school districts that seek state assistance in providing school plant facilities. [1991 c 288 § 2. Prior: 1990 c 161 § 2; 1990 c 33 § 298; 1987 c 100 § 1; 1985 c 385 § 9; 1985 c 6 § 1; 1975-'76 2nd ex.s. c 15 § 2; prior: 1975 1st ex.s. c 275 § 83; 1975 c 43 § 4; 1969 ex.s. c 176 § 120; 1969 ex.s. c 223 § 28A.57.050; prior: 1959 c 268 § 2, part; 1955 c 395 § 2, part; 1947 c 266 § 13, part; Rem. Supp. 1941 § 4693-32, part; prior: 1941 c 248 § 5, part; Rem. Supp. 1941 § 4709-5, part. Formerly RCW 28A.57.050, 28.57.050, part.]

Severability—1985 c 385: See note following RCW 28A.315.020.

Effective date—Severability—1975 c 43: See notes following RCW 28A.315.230.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

Department of community development: Chapter 43.63A RCW.

28A.315.120 Regional committees—Recommendations—Standards. Each regional committee, in carrying out the purposes of RCW 28A.315.110, shall base its judgment and recommendations, if any, to the state board of education, upon such standards and considerations as are established by the state board of education pursuant to chapter 34.05 RCW for the preparation of recommended changes in the organization and extent of school districts and terms of adjustment as provided for in RCW 28A.315.110. Such rules and regulations shall provide for giving consideration: (1) To equalization of the educational opportunities of pupils and to economies in the administration and operation of schools through the formation of larger units of administration and areas of attendance; (2) to equalization among school districts of the tax burden for general fund and capital purposes through a reduction in disparities in per-pupil valuation; (3) to geographical and other features, including, but not limited to such physical characteristics as mountains, lakes and rivers, waste land, climatic conditions, highways, and means of transportation; (4) to the convenience and welfare of pupils, including but not limited to remoteness or isolation of their places of residence and time required to travel to and from school; (5) to improvement of the educational opportunities of pupils through improvement and extension of school programs and through better instruction facilities, equipment, materials, libraries, and health and other services; (6) to equalization of the burden of financing the cost of high school facilities through extension of the boundaries of high school districts to include within each such district all of the territory served by the high school located therein: PROVIDED, That a nonhigh school district may be excluded from a plan if such district is found by the regional committee and the state board to be so situated with respect to location, present and clearly foreseeable future population, and other pertinent factors as to warrant the establishment and operation of a high school therein or the inclusion of its territory in a new district formed for the purpose of establishing and operating a high school; (7) to the future effective utilization of existing satisfactory school buildings, sites, and playfields; the adequacy of such facilities located in the proposed new district; and additional facilities required if such proposed district is formed; and (8) to any other matters which in the judgment of the state board of education are related to or

may operate to further equalization and improvement of school facilities and services, economies in operating and capital fund expenditures, and equalization among school districts of tax rates for school purposes. [1990 c 33 § 299; 1985 c 385 § 10; 1969 ex.s. c 223 § 28A.57.055. Prior: 1959 c 268 § 2, part; 1955 c 395 § 2, part; 1947 c 266 § 13, part; Rem. Supp. 1941 § 4693-32, part; prior: 1941 c 248 § 5, part; Rem. Supp. 1941 § 4709-5, part. Formerly RCW 28A.57.055, 28.57.050, part.]

Severability—1985 c 385: See note following RCW 28A.315.020.

28A.315.130 Changing conflicting or incorrectly described school district boundaries. In case the boundaries of any of the school districts are conflicting or incorrectly described, the regional committee on school organization after due notice and a public hearing, shall change, harmonize, and describe them and shall so certify, with a complete transcript of boundaries of all districts affected, such action to the state board of education for its approval or revision. Upon receipt of notification of state board of education action, the regional committee on school organization shall transmit to the county commissioners of the county or counties in which the affected districts are located a complete transcript of the boundaries of all districts affected. [1985 c 385 § 11; 1971 ex.s. c 282 § 26. Formerly RCW 28A.57.057.]

Severability—1985 c 385: See note following RCW 28A.315.020.

Severability—1971 ex.s. c 282: See note following RCW 28A.310.010.

28A.315.140 Powers and duties of state board, generally. The powers and duties of the state board with respect to this chapter shall be:

(1) To aid regional committees in the performance of their duties by furnishing them with plans of procedure, standards, data, maps, forms, and other necessary materials and services essential to a study and understanding of the problems of school district organization in their respective educational service districts.

(2) To receive, file, and examine the proposals and the maps, reports, records, and other materials relating thereto submitted by regional committees and to approve such proposals and so notify the regional committees when said proposals are found to provide for satisfactory improvement in the school district system of the counties and the state and for an equitable adjustment of the assets and liabilities, including bonded indebtedness and excess tax levies as authorized under RCW 28A.315.110(2), of the school districts involved or affected: PROVIDED, That whenever the state board approves a recommendation from a regional committee for the transfer of territory from one school district to another school district, such state board approval must be made not later than March 1 of any given year for implementation the school year immediately following: PROVIDED FURTHER, That whenever such proposals are found by the state board to be unsatisfactory or inequitable, the board shall so notify the regional committee and, upon request, assist the committee in making revisions which revisions shall be resubmitted within sixty days after such notification for reconsideration and approval or disapproval. Implementation of state board-approved transfers of territory

from one school district to another school district shall become effective at the commencement of the next school year unless an earlier implementation is agreed upon in writing by the boards of directors of the affected school districts. [1990 c 33 § 300; 1987 c 100 § 2; 1985 c 385 § 12; 1969 ex.s. c 223 § 28A.57.060. Prior: 1955 c 395 § 3; 1947 c 266 § 14; Rem. Supp. 1947 § 4693-33; prior: 1941 c 248 § 8; Rem. Supp. 1941 § 4709-8. Formerly RCW 28A.57.060, 28.57.060.]

Severability—1985 c 385: See note following RCW 28A.315.020.

28A.315.150 Action upon board's report. Upon receipt by a regional committee of such notice from the state board as is required in RCW 28A.315.140(2), the educational service district superintendent shall make an order establishing all approved changes involving the alteration of the boundaries of an established school district or districts and all approved terms of adjustment of assets and liabilities involving an established district or districts the boundaries of which have been or are hereafter altered in the manner provided by law, and shall certify his or her action to each county auditor for the board of county commissioners, each county treasurer, each county assessor and the superintendents of all school districts affected by such action. Upon receipt of such certification the superintendent of each school district which is annexed to another district by the action shall deliver to the superintendent of the school district to which annexed all books, papers, documents, records, and other materials pertaining to his or her office. [1990 c 33 § 301; 1985 c 385 § 13; 1975 1st ex.s. c 275 § 84; 1969 ex.s. c 176 § 121; 1969 ex.s. c 223 § 28A.57.070. Prior: 1957 c 129 § 1, part; 1955 c 395 § 4, part; 1951 c 87 § 1, part; 1947 c 266 § 19, part; Rem. Supp. 1947 § 4693-38, part. Formerly RCW 28A.57.070, 28.57.070, part.]

Severability—1985 c 385: See note following RCW 28A.315.020.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.315.160 Adjustment of bonded indebtedness—Special election in certain cases. Whenever adjustments of bonded indebtedness are made between or among school districts in connection with the alteration of the boundaries thereof, pursuant to the provisions of this chapter, the order of the educational service district superintendent establishing the terms of adjustment of bonded indebtedness shall provide and specify:

(1) In every case where bonded indebtedness is transferred from one school district to another school district (a) that such bonded indebtedness is assumed by the school district to which it is transferred; (b) that thereafter such bonded indebtedness shall be the obligation of the school district to which it is transferred; (c) that, if the terms of adjustment so provide, any bonded indebtedness thereafter incurred by such transferee school district through the sale of bonds authorized prior to the date its boundaries were altered shall be the obligation of such school district including the territory added thereto; and (d) that taxes shall be levied thereafter against the taxable property located within such school district as it is constituted after its boundaries were altered, said taxes to be levied at the times and in the amounts required to pay the principal of and the interest on

the bonded indebtedness assumed or incurred as aforesaid, as the same become due and payable.

In computing the debt limitation of any school district from which or to which bonded indebtedness has been transferred, the amount of such transferred bonded indebtedness at any time outstanding (a) shall be an offset against and deducted from the total bonded indebtedness, if any, of the school district from which such bonded indebtedness was transferred and (b) shall be deemed to be bonded indebtedness solely of the transferee school district that assumed such indebtedness.

(2) In every case where adjustments of bonded indebtedness do not provide for transfer of bonded indebtedness from one school district to another school district (a) that the existing bonded indebtedness of each school district the boundaries of which are altered and any bonded indebtedness incurred by each such school district through the sale of bonds authorized prior to the date its boundaries were altered shall be the obligation of the school district in its reduced or enlarged form, as the case may be; and (b) that taxes shall be levied thereafter against the taxable property located within each such school district in its reduced or enlarged form, as the case may be, at the times and in the amounts required to pay the principal of and interest on such bonded indebtedness as the same become due and payable.

If a change in school district organization approved by the state board concerns a proposal to form a new school district or a proposal for adjustment of bonded indebtedness involving an established school district and one or more former school districts now included therein pursuant to a vote of the people concerned, a special election of the voters residing within the territory of the proposed new district or of the established district involved in a proposal for adjustment of bonded indebtedness as the case may be shall be held for the purpose of affording said voters an opportunity to approve or reject such proposals as concern or affect them.

In a case involving both the question of the formation of a new school district and the question of adjustment of bonded indebtedness, the questions may be submitted to the voters either in the form of a single proposition or as separate propositions, whichever to the educational service district superintendent seems expedient. When the regional committee has passed appropriate resolutions for the questions to be submitted and the educational service district superintendent has given notice thereof to the county auditor such special election shall be called, conducted, and the returns canvassed as in regular school district elections. [1985 c 385 § 14; 1975 1st ex.s. c 275 § 85; 1969 ex.s. c 176 § 122; 1969 ex.s. c 223 § 28A.57.075. Prior: 1957 c 129 § 1, part; 1955 c 395 § 4, part; 1951 c 87 § 1, part; 1947 c 266 § 19, part; Rem. Supp. 1947 § 4693-38, part. Formerly RCW 28A.57.075, 28.57.070, part.]

Severability—1985 c 385: See note following RCW 28A.315.020.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.315.170 Notice of election—Contents. Notice of such special elections as provided for in RCW 28A.315.160 shall be given by the county auditor as in RCW 29.27.080 provided. The notice of election shall state the

purpose for which the election has been called and shall contain a description of the boundaries of the proposed new district and a statement of any terms of adjustment of bonded indebtedness to be voted on. [1990 c 33 § 302; 1985 c 385 § 15; 1975 1st ex.s. c 275 § 86; 1971 c 48 § 26; 1969 ex.s. c 223 § 28A.57.080. Prior: 1947 c 266 § 20; Rem. Supp. 1947 § 4693-39. Formerly RCW 28A.57.080, 28.57.080.]

Severability—1985 c 385: See note following RCW 28A.315.020.

Severability—1971 ex.s. c 48: See note following RCW 28A.305.040.

28A.315.180 Vote, how determined—ESD superintendent's order—Certification—Effective date. Whenever a special election is held to vote on a proposal or alternate proposals to form a new school district, the votes cast by the registered voters in each component district shall be tabulated separately and any such proposition shall be considered approved only if it receives a majority of the votes cast in each separate district voting thereon. Whenever a special election is held to vote on a proposal for adjustment of bonded indebtedness the entire vote cast by the registered voters of the proposed new district or of the established district as the case may be shall be tabulated and any such proposition shall be considered approved if sixty percent or more of all votes cast thereon are in the affirmative.

In the event of approval of a proposition or propositions voted on at a special election, the educational service district superintendent shall: (1) Make an order establishing such new school district or such terms of adjustment of bonded indebtedness or both, as were approved by the registered voters and shall also order effected such other terms of adjustment, if there be any, of property and other assets and of liabilities other than bonded indebtedness as have been approved by the state board; and (2) certify his or her action to the county and school district officials specified in RCW 28A.315.150. He or she may designate, with the approval of the superintendent of public instruction, a name and number different from that of any component thereof but must designate the new district by name and number different from any other district in existence in the county.

The educational service district superintendent shall fix, as the effective date of any order or orders he or she is required by this chapter to make, a date no later than the first day of September next succeeding the date of final approval of any change in the organization and extent of school districts or of any terms of adjustment of the assets and liabilities of school districts subject, for taxing purposes, to the redrawing of taxing district boundaries pursuant to RCW 84.09.030.

Upon receipt of the aforesaid certification, the superintendent of each school district which is included in the new district shall deliver to the superintendent of the new school district all books, papers, documents, records and other materials pertaining to his or her office. [1990 c 33 § 303; 1985 c 385 § 16; 1975 1st ex.s. c 275 § 87; 1969 ex.s. c 176 § 123; 1969 ex.s. c 223 § 28A.57.090. Prior: 1957 c 296 § 1; 1955 c 395 § 5; 1947 c 266 § 21; Rem. Supp. 1947 § 4693-40. Formerly RCW 28A.57.090, 28.57.090.]

Severability—1985 c 385: See note following RCW 28A.315.020.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.315.190 Procedure upon rejection of proposal. If a proposal for the formation of a new school district and for adjustment of bonded indebtedness, or either, is rejected by the registered voters at a special election, the regional committee may make such revisions therein as it deems advisable and submit the revised proposal or proposals to the state board. Thereafter such revised proposal or proposals shall be subject to the provisions and procedural requirements of this chapter applicable to original proposals submitted to said board. [1985 c 385 § 17; 1969 ex.s. c 223 § 28A.57.100. Prior: 1947 c 266 § 22; Rem. Supp. 1947 § 4693-41. Formerly RCW 28A.57.100, 28.57.100.]

Severability—1985 c 385: See note following RCW 28A.315.020.

28A.315.200 Personnel and supplies to be furnished by state superintendent—Expenses reimbursed. The superintendent of public instruction shall furnish to the state board and to regional committees the services of employed personnel and the materials and supplies necessary to enable them to perform the duties imposed upon them by this chapter and shall reimburse the members thereof for expenses necessarily incurred by them in the performance of their duties, such reimbursement for regional committee members to be in accordance with RCW 28A.315.090, and such reimbursement for state board members to be in accordance with RCW 28A.305.120. [1990 c 33 § 304; 1985 c 385 § 18; 1969 ex.s. c 223 § 28A.57.110. Prior: 1947 c 266 § 39; Rem. Supp. 1947 § 4693-58. Formerly RCW 28A.57.110, 28.57.110.]

Severability—1985 c 385: See note following RCW 28A.315.020.

28A.315.210 Appeal. An appeal may be taken, as provided for in RCW 28A.645.010, to the superior court of the county in which a school district or any part thereof is situated on any question of adjustment of property and other assets and of liabilities provided for in this chapter. If the court finds the terms of the adjustment in question not equitable, the court shall make an adjustment that is equitable. [1990 c 33 § 305; 1983 c 3 § 34; 1969 ex.s. c 223 § 28A.57.120. Prior: 1947 c 266 § 40; Rem. Supp. 1947 § 4693-59. Formerly RCW 28A.57.120, 28.57.120.]

Boundary change, copy of decision to county assessor: RCW 28A.645.040.

28A.315.220 Organization of school districts. A school district shall be organized in form and manner as hereinafter in this chapter provided, and shall be known as (insert here the name of the district) School District No. county, state of Washington: PROVIDED, That all school districts now existing as shown by the records of the educational service district superintendent are hereby recognized as legally organized districts: PROVIDED FURTHER, That all school districts existing on April 25, 1969 as shown by the records of the county or intermediate district superintendents are hereby recognized as legally organized districts. [1975 1st ex.s. c 275 § 88; 1969 ex.s. c 176 § 124; 1969 ex.s. c 223 § 28A.57.130. Prior: 1947 c 266 § 3; Rem. Supp. 1947 § 4693-22. Formerly RCW 28A.57.130, 28.57.130.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.315.230 Classes of districts—Change of classification. Any school district in the state having a student enrollment within the public schools of such district of two thousand pupils or more, as shown by evidence acceptable to the educational service district superintendent and the superintendent of public instruction, shall be a school district of the first class. Any other school district shall be a school district of the second class.

Whenever the educational service district superintendent finds that the classification of a school district should be changed, and upon the approval of the superintendent of public instruction, he or she shall make an order in conformity with his or her findings and alter the records of his or her office accordingly. Thereafter the board of directors of the district shall organize in the manner provided by law for the organization of the board of a district of the class to which said district then belongs. [1991 c 116 § 25; 1990 c 33 § 306; 1975-'76 2nd ex.s. c 15 § 3. Prior: 1975 1st ex.s. c 275 § 89; 1975 c 43 § 1; 1969 ex.s. c 176 § 125; 1969 ex.s. c 223 § 28A.57.140; prior: 1947 c 266 § 9; Rem. Supp. 1947 § 4693-28; prior: 1909 p 264 §§ 2, 3, 4; RRS §§ 4695, 4696, 4697. Formerly RCW 28A.57.140, 28.57.140.]

Effective date—1975 c 43: "The effective date of this amendatory act shall be July 1, 1975." [1975 c 43 § 37.]

Severability—1975 c 43: "If any provision of this amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 c 43 § 38.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.315.240 Classes of districts—Change of classification—Delay of authorized. Notwithstanding any other provision of chapter 43, Laws of 1975, the *educational service district superintendent, with the concurrence of the superintendent of public instruction, may delay approval of a change in classification of any school district for a period not exceeding three years when, in fact, the student enrollment of the district within any such time period does not exceed ten percent, either in a decrease or increase thereof. [1975 c 43 § 35. Formerly RCW 28A.57.145.]

***Reviser's note:** "Educational service district superintendent" has been substituted for "intermediate school district superintendent" pursuant to RCW 28A.310.010 and 28A.310.900.

Effective date—Severability—1975 c 43: See notes following RCW 28A.315.230.

28A.315.250 City or town districts. Each incorporated city or town in the state shall be comprised in one school district: PROVIDED, That nothing in this section shall be construed: (1) To prevent the extension of the boundaries of a school district beyond the limits of the city or town contained therein, or (2) to prevent the inclusion of two or more incorporated cities or towns in a single school district, or (3) to change or disturb the boundaries of any school district organized prior to the incorporation of any city or town, except as hereafter in this section provided.

In case all or any part of a school district that operates a school or schools on one site only or operates elementary schools only on two or more sites is included in an incorpo-

rated city or town through the extension of the limits of such city or town in the manner provided by law, the educational service district superintendent shall: (1) Declare the territory so included to be a part of the school district containing the city or town and (2) whenever a part of a district so included contains a school building of the district, present to the regional committee a proposal for the disposition of any part or all of the remaining territory of the district.

In case of the extension of the limits of a town to include territory lying in a school district that operates on more than one site one or more elementary schools and one or more junior high schools or high schools, the regional committee shall, in its discretion, prepare a proposal or proposals for annexation to the school district in which the town is located any part or all of the territory aforesaid which has been included in the town and for annexation to the school district in which the town is located or to some other school district or districts any part or all of the remaining territory of the school district affected by extension of the limits of the town: PROVIDED, That where no school or school site is located within the territory annexed to the town and not less than seventy-five percent of the registered voters residing within the annexed territory present a petition in writing for annexation and transfer of said territory to the school district in which the town is located, the educational service district superintendent shall declare the territory so included to be a part of the school district containing said town: PROVIDED FURTHER, That territory approved for annexation to a city or town by vote of the electors residing therein prior to January 12, 1953, shall not be subject to the provisions herein respecting annexation to a school district or school districts: AND PROVIDED FURTHER, That the provisions and procedural requirements of this chapter as now or hereafter amended not in conflict with or inconsistent with the provisions hereinabove in this section stated shall apply in the case of any proposal or proposals (1) for the alteration of the boundaries of school districts through and by means of annexation of territory as aforesaid, and (2) for the adjustment of the assets and liabilities of the school districts involved or affected thereby.

In case of the incorporation of a city or town containing territory lying in two or more school districts or of the uniting of two or more cities or towns not located in the same school district, the educational service district superintendent, except where the incorporation or consolidation would affect a district or districts of the first class, shall: (1) Order and declare to be established in each such case a single school district comprising all of the school districts involved, and (2) designate each such district by name and by a number different from that of any other district in existence in the county.

The educational service district superintendent shall fix as the effective date of any declaration or order required under this section a date no later than the first day of September next succeeding the date of the issuance of such declaration or order. [1985 c 385 § 19; 1975 1st ex.s. c 275 § 90; 1969 ex.s. c 176 § 126; 1969 ex.s. c 223 § 28A.57.150. Prior: 1965 ex.s. c 108 § 1; 1963 c 208 § 1; 1953 c 49 § 1; 1947 c 266 § 5; Rem. Supp. 1947 § 4693-24; prior: 1909 c 97 p 265 § 3; RRS § 4703. Formerly RCW 28A.57.150, 28.57.150.]

Severability—1985 c 385: See note following RCW 28A.315.020.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.315.260 Reorganization of districts by transfer of territory or annexation. A new school district may be formed comprising contiguous territory lying in either a single county or in two or more counties. Such new district may comprise two or more whole school districts and/or a part of one or more school districts and/or territory which is not a part of any school district. The boundaries of existing school districts may be altered (1) by the transfer of territory from one district to another district, or (2) by the annexation to a district of a part or all of one or more other districts or of territory which is not a part of any school district: **PROVIDED,** That such territory shall be contiguous to the district to which it is transferred or annexed. Territory may be transferred or annexed to an existing school district without regard to county boundaries. [1969 ex.s. c 223 § 28A.57.160. Prior: 1947 c 266 § 4; Rem. Supp. 1947 § 4693-23. Formerly RCW 28A.57.160, 28.57.160.]

28A.315.270 Petition for reorganization—Conditions. For the purpose of forming a new school district, a petition in writing may be presented to the educational service district superintendent, as secretary of the regional committee, by registered voters residing (1) in each whole district and in each part of a district proposed to be included in any single new district, or (2) in the territory of a proposed new district which comprises a part only of one or more districts. A total of ten or more registered voters residing in such affected areas or area as the case may be may sign and present such petition with the approval of the boards of directors of the affected school districts. A total of ten percent or more of the registered voters residing in such affected areas or area as the case may be may sign and present such petition with or without the approval of the boards of directors of the affected school districts. The petition shall state the name and number of each district involved in or affected by the proposal to form the new district and shall describe the boundaries of the proposed new district. No more than one petition for consolidation of the same two school districts or parts thereof will be considered during a school fiscal year. [1985 c 385 § 20; 1982 c 191 § 1; 1975 1st ex.s. c 275 § 91; 1969 ex.s. c 176 § 127; 1969 ex.s. c 223 § 28A.57.170. Prior: 1947 c 266 § 15; Rem. Supp. 1947 § 4693-34; prior: 1909 c 97 p 266 § 1; RRS § 4721; prior: 1899 c 14 § 1; 1897 c 118 § 4; 1891 c 127 § 7; 1890 p 361 § 19. Formerly RCW 28A.57.170, 28.57.170.]

Severability—1985 c 385: See note following RCW 28A.315.020.

Effective date—1982 c 191: "The effective date of sections 3 and 4 of this amendatory act shall be September 1, 1982." [1982 c 191 § 13.] Sections 3 and 4 of this amendatory act [1982 c 191] were codified as RCW 28A.58.131 and 28A.58.035, respectively.

Severability—1982 c 191: "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." [1982 c 191 § 14.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.315.280 Transfer of territory—By petition—By ESD superintendent—When election required. For the purpose of transferring territory from one school district to another district, a petition in writing may be presented to the educational service district superintendent, as secretary of the regional committee, signed by a majority of the registered voters residing in the territory proposed to be transferred, or by the board of directors of one of the districts affected by a proposed transfer of territory if there is no registered voter resident in the territory, which petition shall state the name and number of each district affected, describe the boundaries of the territory proposed to be transferred, and state the reasons for desiring the change and the number of children of school age, if any, residing in the territory: **PROVIDED,** That the educational service district superintendent, without being petitioned to do so, may present to the regional committee a proposal for the transfer from one school district to another of any territory in which no children of school age reside: **PROVIDED FURTHER,** That the educational service district superintendent shall not complete any transfer of territory pursuant to the provisions of this section which involves ten percent or more of the common school student population of the entire district from which such transfer is proposed, unless he or she has first called and held a special election of the voters of the entire school district from which such transfer of territory is proposed for the purpose of affording said voters an opportunity to approve or reject such proposed transfer, and has obtained approval of the proposed transfer by a majority of those registered voters voting in said election; and if such proposed transfer is disapproved, the state board of education shall determine whether or not said district is meeting or capable of meeting minimum standards of education as set up by the state board. If the state board decides in the negative, the superintendent of public instruction may thereupon withhold from such district, in whole or in part, state contributed funds. [1985 c 385 § 21; 1975 1st ex.s. c 275 § 92; 1969 ex.s. c 176 § 128; 1969 ex.s. c 223 § 28A.57.180. Prior: 1959 c 268 § 14; 1947 c 266 § 16; Rem. Supp. 1947 § 4693-35; prior: 1915 c 50 § 1; RRS § 4727. Formerly RCW 28A.57.180, 28.57.180.]

Severability—1985 c 385: See note following RCW 28A.315.020.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.315.290 Annexation of district bounded on three sides by high school district. Whenever all or any part of a school district in which no accredited high school is maintained is bounded on three or more sides by a school district in which an accredited high school is situated and maintained, or by a school district in which a high school with a program approved by the state board of education is situated and maintained, the educational service district superintendent shall report said fact to the regional committee, which committee shall consider the question of the annexation to the aforesaid high school district of the territory or district so bounded. [1985 c 385 § 22; 1975 1st ex.s. c 275 § 93; 1969 ex.s. c 176 § 129; 1969 ex.s. c 223 § 28A.57.190. Prior: 1947 c 266 § 17; Rem. Supp. 1947 § 4693-36. Formerly RCW 28A.57.190, 28.57.190.]

Severability—1985 c 385: See note following RCW 28A.315.020.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.315.300 Single school district for certain United States military reservations—Mandated. Notwithstanding other provisions of this chapter or any other provision of law and except as otherwise provided in RCW 28A.315.310; as of July 1, 1972, any United States military reservation in the state of Washington with more than two thousand five hundred common school age children in public schools resident thereon shall be included wholly within the boundaries of a single school district. Such single school district shall be one of the school districts presently having boundary lines within such military reservation and serving pupils thereon. The procedure for achieving such single school districts where they do not now exist, or in any year in the future when there are more than two thousand five hundred common school age children on such a military reservation resident therein, shall be as prescribed in RCW 28A.315.310. [1990 c 33 § 307; 1972 ex.s. c 63 § 1. Formerly RCW 28A.57.195.]

28A.315.310 Single school district for certain United States military reservations—Procedure—Limitations. On or before June 1, 1972, or in any year in the future when there are more than two thousand five hundred common school age children on a military reservation as referred to in RCW 28A.315.300 resident therein, whichever is the case, and notwithstanding other provisions of this chapter or any other provision of law, the regional committee of each educational service district in which such a United States military reservation is located, or in the case such military reservation is located in two or more educational service districts, the joint regional committee established pursuant to RCW 28A.315.360, shall order effective September 1 of the then calendar year the annexation of portions of reservation territory not currently within the single school district, as required by RCW 28A.315.300, to one of the school districts encompassing a portion of the military reservation: **PROVIDED,** That notwithstanding any other provision of RCW 28A.315.300 and 28A.315.310 the annexation order shall not include territory of school districts on such military reservations in which none or less than a majority of the pupils residing within that portion of the district within such military reservation have one or more parents serving in the military and under such military command. Notwithstanding any other provision of law, the decision as to which school district shall serve the pupils residing within such military reservation shall rest solely with the regional committee of the educational service district in which the affected military reservation is located. The regional committee shall order such equitable transfer of assets and liabilities as is deemed necessary for the orderly transfer of the territory in accordance with transfers in other annexation proceedings authorized under this chapter. [1990 c 33 § 308; 1985 c 385 § 23; 1972 ex.s. c 63 § 2. Formerly RCW 28A.57.196.]

Severability—1985 c 385: See note following RCW 28A.315.020.

28A.315.320 Dissolution and annexation of certain districts—Annexation of nondistrict property. In case any school district shall have an average enrollment of fewer

than five kindergarten through eighth grade pupils during the preceding school year, including the 1984-85 school year and any subsequent school year, or shall not have made a reasonable effort to maintain, during the preceding school year at least the minimum term of school required by law, the educational service district superintendent shall report said fact to the regional committee, which committee shall dissolve the school district and annex the territory thereof to some other district or districts: **PROVIDED,** That for the purposes of this section, in addition to any other finding, "reasonable effort" shall be deemed to mean the attempt to make up whatever days are short of the legal requirement by the conducting of school classes on any days to include available holidays, though not to include Saturdays and Sundays, prior to June 15 of that year: **PROVIDED FURTHER,** That school districts operating an extended school year program, most commonly implemented as a 45-15 plan, shall be deemed to be making a reasonable effort: **PROVIDED FURTHER,** That in the event any school district has suffered any interruption in its normal school calendar due to a strike or other work stoppage or slowdown by any of its employees such district shall not be subject to the requirements of this section. In case any territory is not a part of any school district, the educational service district superintendent shall present to the regional committee a proposal for the annexation of said territory to some contiguous district or districts. [1985 c 385 § 24; 1975-'76 2nd ex.s. c 15 § 4. Prior: 1975 1st ex.s. c 275 § 94; 1975 1st ex.s. c 23 § 1; 1970 ex.s. c 86 § 4; 1969 ex.s. c 176 § 130; 1969 ex.s. c 223 § 28A.57.200; prior: 1947 c 266 § 18; Rem. Supp. 1947 § 4693-37. Formerly RCW 28A.57.200, 28.57.200.]

Severability—1985 c 385: See note following RCW 28A.315.020.

Severability—1970 ex.s. c 86: "If any provision of this 1970 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1970 ex.s. c 86 § 7.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.315.330 Adjustment of indebtedness—Basis. The fact of the issuance of bonds by a school district, heretofore or hereafter, shall not prevent changes in the organization and extent of school districts, regardless of whether or not such bonds or any part thereof are outstanding at the time of change. In case of any change (1) the bonded indebtedness outstanding against any school district involved in or affected by such change shall be adjusted equitably among the old school districts and the new district or districts, if any, involved or affected; and (2) the property and other assets and the liabilities other than bonded indebtedness of any school district involved in or affected by any such change shall also be adjusted in the manner and to the effect hereinbefore in this section provided for, except when all the territory of an old school district is included in a single new district or is annexed to a single existing district, in which event the title to the property and other assets and the liabilities other than bonded indebtedness of such old district shall vest in and become the assets and liabilities of the new district or of the existing district as the case may be. [1969 ex.s. c 223 § 28A.57.210. Prior: 1947 c 266 § 7; Rem. Supp. 1947 § 4693-26. Formerly RCW 28A.57.210, 28.57.210.]

28A.315.340 Corporate existence retained to pay bonded indebtedness—Tax levies—Joint school districts. Each school district involved in or affected by any change heretofore or hereafter made in the organization and extent of school districts shall retain its corporate existence insofar as is necessary for the purpose until the bonded indebtedness outstanding against it on and after the effective date of said change has been paid in full: PROVIDED, That nothing in this section shall be so construed as to prevent, after the aforesaid effective date, such adjustments of bonded indebtedness as are provided for in this chapter. The county commissioners shall have the power and it shall be their duty to provide by appropriate levies on the taxable property of each school district for the payment of the bonded indebtedness outstanding against it after any of the aforesaid changes and/or adjustments have been effected. In case any such changes or adjustments involve a joint school district, the tax levy for the payment of any bonded indebtedness outstanding against such joint district after said changes or adjustments are effected shall be made and the proceeds thereof shall be transmitted, credited, and paid out in conformity with the provisions of law applicable to the payment of the bonded indebtedness of joint school districts heretofore established. [1969 ex.s. c 223 § 28A.57.220. Prior: 1947 c 266 § 8; Rem. Supp. 1947 § 4693-27. Formerly RCW 28A.57.220, 28.57.220.]

28A.315.350 Joint school districts—Defined—Designation. Any school district composed of territory lying in more than one county shall be known as a joint school district, and shall be designated by number in accordance with rules and regulations promulgated under RCW 28A.305.150. [1990 c 33 § 309; 1973 c 47 § 1; 1969 ex.s. c 223 § 28A.57.230. Prior: 1947 c 266 § 25; Rem. Supp. 1947 § 4693-44; prior: 1909 c 97 p 264 § 6; RRS § 4699; prior: 1897 c 118 § 13. Formerly RCW 28A.57.230, 28.57.230.]

Severability—1973 c 47: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 c 47 § 6.]

28A.315.360 School districts in two or more educational service districts—Change or adjustment of districts—Procedure generally. The duties in this chapter imposed upon and required to be performed by a regional committee and by an educational service district superintendent in connection with a change in the organization and extent of school districts and/or with the adjustment of the assets and liabilities of school districts and with all matters related to such change or adjustment whenever territory lying in a single educational service district is involved shall be performed jointly by the regional committees and by the superintendents of the several educational service districts as required whenever territory lying in more than one educational service district is involved in a proposed change in the organization and extent of school districts: PROVIDED, That a regional committee may designate three of its members, or two of its members and the educational service district superintendent, as a subcommittee to serve in lieu of the whole committee, but action by a subcommittee shall not be binding unless approved by a majority of the regional

committee. Proposals for changes in the organization and extent of school districts and proposed terms of adjustment of assets and liabilities thus prepared and approved shall be submitted to the state board by the regional committee of the educational service district in which is located the part of the proposed or enlarged district having the largest number of common school pupils residing therein. [1985 c 385 § 25; 1975 1st ex.s. c 275 § 95; 1973 c 47 § 2; 1969 ex.s. c 176 § 131; 1969 ex.s. c 223 § 28A.57.240. Prior: 1947 c 266 § 26; Rem. Supp. 1947 § 4693-45. Formerly RCW 28A.57.240, 28.57.240.]

Severability—1985 c 385: See note following RCW 28A.315.020.

Severability—1973 c 47: See note following RCW 28A.315.350.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.315.370 School districts in two or more educational service districts—Proposed change or adjustment—Procedure when one committee does not approve, or fails to act—Temporary committee. Whenever a proposed change in the organization and extent of school districts or an adjustment of the assets and liabilities of school districts, or both, or any other matters related to such change or adjustment involve school districts in two or more educational service districts, and a majority of at least one of the regional committees involved approve a proposal but the proposal is not approved by the other regional committee or committees or one or more of said committees fails or refuses to act upon the proposal within sixty days of its receipt, the regional committee or committees approving the proposal shall certify the proposal and its approval to the state superintendent of public instruction. Upon receipt of a properly certified proposal, the state superintendent of public instruction shall appoint a temporary committee composed of five persons. The members of the temporary committee shall be selected from the membership of any regional committee in this state except that no member shall be appointed from any educational service district in which there is situated a school district that would be affected by the proposed change. Said committee shall meet at the call of the state superintendent of public instruction and organize by electing a chair and secretary. Thereupon, this temporary committee shall have jurisdiction of the proposal and shall treat the same as a proposal initiated on its own motion. Said committee shall have the powers and duties imposed upon and required to be performed by a regional committee under the provisions of this chapter and the secretary of the committee shall have the powers and duties imposed upon and required to be performed by the educational service district superintendents under the provisions of this chapter. It shall be the duty of the educational service district superintendents of the educational service districts in which the school districts that would be affected by the proposed change are situated to assist the temporary committee by supplying said committee with information from the records and files of their offices and with a proper and suitable place for holding meetings. [1990 c 33 § 310; 1985 c 385 § 26; 1975 1st ex.s. c 275 § 96; 1969 ex.s. c 176 § 132; 1969 ex.s. c 223 § 28A.57.245. Prior: 1959 c 268 § 5. Formerly RCW 28A.57.245, 28.57.245.]

Severability—1985 c 385: See note following RCW 28A.315.020.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.315.380 Joint school districts—Administration—County to which joint school district considered as belonging. For all purposes essential to the maintenance, operation, and administration of the schools of a district, including the apportionment of current state and county school funds, the county in which a joint school district shall be considered as belonging shall be as designated by the state board of education. Prior to making such designation, the state board of education shall hold at least one public hearing on the matter, at which time the recommendation of the joint school district shall be presented and, in addition to such recommendation, the state board shall consider the following prior to its designation:

- (1) Service needs of such district;
- (2) Availability of services;
- (3) Geographic location of district and servicing agencies; and
- (4) Relationship to contiguous school districts. [1973 c 47 § 3; 1969 ex.s. c 223 § 28A.57.250. Prior: 1947 c 266 § 27; Rem. Supp. 1947 § 4693-46. Formerly RCW 28A.57.250, 28.57.250.]

Severability—1973 c 47: See note following RCW 28A.315.350.

28A.315.390 Joint school districts—Special rules for electors voting for directors. The registered voters residing within a joint school district shall be entitled to vote on the office of school director of their district.

Jurisdiction of any such election shall rest with the county auditor of the county administering such joint district as provided in RCW 28A.315.380.

At each general election, or upon approval of a request for a special election as provided for in RCW 29.13.020, such county auditor shall:

- (1) See that there shall be at least one polling place in each county;
- (2) At least twenty days prior to the elections concerned, certify in writing to the superintendent of the school district the number and location of the polling places established by such auditor for such regular or special elections; and
- (3) Do all things otherwise required by law for the conduct of such election.

It is the intention of this section that the qualified electors of a joint school district shall not be forced to go to a different polling place on the same day when other elections are being held to vote for school directors of their district. [1990 c 33 § 311; 1983 c 56 § 6; 1975 1st ex.s. c 275 § 97; 1973 c 47 § 4; 1969 ex.s. c 176 § 133; 1969 ex.s. c 223 § 28A.57.255. Prior: 1961 c 130 § 23. Formerly RCW 28A.57.255, 28.57.255.]

Severability—1983 c 56: See note following RCW 28A.195.010.

Severability—1973 c 47: See note following RCW 28A.315.350.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.315.400 Joint school districts—Directors—Vacancies. A vacancy in the office of director of a joint district shall be filled in the manner provided by RCW 28A.315.530 for filling vacancies, such appointment to be

valid only until a director is elected and qualified to fill such vacancy at the next regular district election. [1990 c 33 § 312; 1973 c 47 § 5; 1971 c 53 § 3; 1969 ex.s. c 176 § 134; 1969 ex.s. c 223 § 28A.57.260. Prior: 1947 c 266 § 28; Rem. Supp. 1947 § 4693-47. Formerly RCW 28A.57.260, 28.57.260.]

Severability—1973 c 47: See note following RCW 28A.315.350.

Severability—1971 c 53: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 c 53 § 6.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.315.410 Joint school districts—Powers and duties. A joint school district and the officers thereof shall possess all the powers and be subject to all of the duties vested in or imposed upon other school districts of the same class and upon the officers thereof, except as otherwise provided by law. Whenever the laws relating to school districts shall provide for any action by a county officer, such action, if required to be performed in behalf of a joint school district, shall be performed by the proper officer of the county to which the joint district belongs, except as otherwise provided by law. [1969 ex.s. c 223 § 28A.57.270. Prior: 1947 c 266 § 29; Rem. Supp. 1947 § 4693-48. Formerly RCW 28A.57.270, 28.57.270.]

28A.315.420 Joint school districts—Assessed valuation of district property to be certified. It shall be the duty of the assessor of each county, a part of which is included within a joint school district, to certify annually to the auditor of the assessor's county and to the auditor of the county to which the joint district belongs, for the board of county commissioners thereof, the aggregate assessed valuation of all taxable property in the assessor's county situated in such joint school district, as the same appears from the last assessment roll of the assessor's county. [1990 c 33 § 313; 1969 ex.s. c 223 § 28A.57.280. Prior: 1947 c 266 § 30; Rem. Supp. 1947 § 4693-49; prior: 1927 c 286 § 1; 1925 ex.s. c 77 § 8; RRS § 4753-8. Formerly RCW 28A.57.280, 28.57.280.]

28A.315.430 Joint school districts—Levy of tax—Ratio. The amount of tax to be levied upon the taxable property of that part of a joint school district lying in one county shall be in such ratio to the whole amount levied upon the property in the entire joint district as the assessed valuation of the property lying in such county bears to the assessed valuation of the property in the entire joint district. [1983 c 56 § 7; 1975 1st ex.s. c 275 § 98; 1969 ex.s. c 176 § 135; 1969 ex.s. c 223 § 28A.57.290. Prior: 1947 c 266 § 31; Rem. Supp. 1947 § 4693-50; prior: (i) 1925 ex.s. c 77 § 10; RRS § 4753-10. (ii) 1927 c 286 § 2; RRS § 4753-11. Formerly RCW 28A.57.290, 28.57.290.]

Severability—1983 c 56: See note following RCW 28A.195.010.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.315.440 Joint school districts—Levy of tax—Remittance of collections to district treasurer. Upon

receipt of the aforesaid certificate, it shall be the duty of the board of county commissioners of each county to levy on all taxable property of that part of the joint school district which lies within the county a tax sufficient to raise the amount necessary to meet the county's proportionate share of the estimated expenditures of the joint district, as shown by the certificate of the educational service district superintendent of the district to which the joint school district belongs. Such taxes shall be levied and collected in the same manner as other taxes are levied and collected, and the proceeds thereof shall be forwarded quarterly by the treasurer of each county, other than the county to which the joint district belongs, to the treasurer of the county to which such district belongs and shall be placed to the credit of said district. The treasurer of the county to which a joint school district belongs is hereby declared to be the treasurer of such district. [1975 1st ex.s. c 275 § 99; 1969 ex.s. c 176 § 136; 1969 ex.s. c 223 § 28A.57.300. Prior: 1947 c 266 § 32; Rem. Supp. 1947 § 4693-51. Formerly RCW 28A.57.300, 28.57.300.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.315.450 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 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. [1991 c 363 § 20; 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 28A.57.312, 28.57.338, 28.58.080.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

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.]

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.]

Effective date—Severability—1979 ex.s. c 183: See notes following RCW 28A.315.580.

Purpose—1979 ex.s. c 126: See RCW 29.04.170(1).

Effective date—Severability—1975 c 43: See notes following RCW 28A.315.230.

28A.315.460 Directors—First class districts having city with population of 400,000 people or more—Terms. After July 1, 1979, the election of directors of any first class school district having within its boundaries a city with a population of four hundred thousand people or more, shall be to four year terms. The initial four year terms required by this section shall commence upon the expiration of terms in existence at July 1, 1979. Nothing in *this amendatory act shall affect the term of office of any incumbent director of any such first class school district. [1991 c 363 § 21; 1979 ex.s. c 183 § 10. Formerly RCW 28A.57.313.]

***Reviser's note:** For codification of "this amendatory act" [1979 ex.s. c 183], see Codification Tables, Volume 0.

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Effective date—Severability—1979 ex.s. c 183: See notes following RCW 28A.315.580.

Directors—Number and terms of in new first class district having city with population of 400,000 people or more: RCW 28A.315.630.

28A.315.470 Directors—Declarations of candidacy—Positions as separate offices. Candidates for the position of school director shall file their declarations of candidacy as provided in Title 29 RCW.

The positions of school directors in each district shall be dealt with as separate offices for all election purposes, and where more than one position is to be filled, each candidate shall file for one of the positions so designated: PROVIDED, That in school districts containing director districts, or a combination of director districts and director at large positions, candidates shall file for such director districts or at large positions. Position numbers shall be assigned to correspond to director district numbers to the extent possible. [1990 c 161 § 4; 1990 c 59 § 98; 1969 ex.s. c 223 § 28A.57.314. Prior: 1963 c 223 § 1. Formerly RCW 28A.57.314, 28.58.082.]

***Reviser's note:** This section was amended by 1990 c 59 § 98 and by 1990 c 161 § 4, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent—Effective date—1990 c 59: See notes following RCW 29.01.006.

Commencement of terms of office: RCW 29.13.020, 29.13.050.

Nonpartisan primaries and elections: Chapter 29.21 RCW.

School district elections

in counties with a population of two hundred ten thousand or more, times for holding: RCW 29.13.020, 29.13.060.

in counties with a population of less than two hundred ten thousand, times for holding: RCW 29.13.020.

Terms of office: RCW 29.13.020, 29.13.050, 29.13.060.

28A.315.480 Directors—Ballots—Form. Except as provided in RCW 29.21.010, the positions of school directors and the candidates therefor shall appear separately on the nonpartisan ballot in substantially the following form:

SCHOOL DIRECTOR ELECTION BALLOT

District No.

Date

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

School District Directors

Position No. 1

Vote for One

-
-
-

Position No. 2

Vote for One

-
-
-

To Fill Unexpired Term

Position No. 3

2 (or 4) year term

Vote for One

-
-
-

The names of candidates shall appear upon the ballot in order of filing for each position. There shall be no rotation of names in the printing of such ballots. [1969 ex.s. c 223 § 28A.57.316. Prior: 1963 c 223 § 2. Formerly RCW 28A.57.316, 28.58.083.]

28A.315.490 Directors—Elected when—Qualifications. Directors of school districts shall be elected at regular school elections. No person shall be eligible to the office of school director who is not a citizen of the United States and the state of Washington and a registered voter of either the school district or director district, as the case may be. [1969 ex.s. c 223 § 28A.57.318. Prior: 1909 c 97 p 285 § 1; RRS § 4775; prior: 1903 c 104 § 16; 1901 c 41 § 2; 1899 c 142 § 7; 1897 c 118 § 39; 1893 c 107 § 2; 1890 p 364 § 25. Formerly RCW 28A.57.318, 28.58.090.]

28A.315.500 Directors—Oath of office. Every person elected or appointed to the office of school director, before entering upon the discharge of the duties thereof, shall take an oath or affirmation to support the Constitution of the United States and the state of Washington and to faithfully discharge the duties of the office according to the best of his or her ability. In case any official has a written appointment or commission, the official's oath or affirmation shall be endorsed thereon and sworn to before any officer authorized to administer oaths. School officials are hereby authorized to administer all oaths or affirmations pertaining to their respective offices without charge or fee. All oaths of office, when properly made, shall be filed with the county auditor. Every person elected to the office of school director shall begin his or her term of office at the first official meeting of the board of directors following certification of the election results. [1990 c 33 § 314; 1988 c 187 § 1; 1986

c 167 § 16; 1969 ex.s. c 223 § 28A.57.322. Prior: 1909 c 97 p 288 § 11; RRS § 4786; prior: 1897 c 118 § 61; 1890 p 380 § 70. Formerly RCW 28A.57.322, 28.58.095, 28.63.015, 28.63.017, 42.04.030.]

Severability—1986 c 167: See note following RCW 29.01.055.

28A.315.510 Directors—Meetings. Regular meetings of the board of directors of any school district shall be held monthly or more often at such a time as the board of directors by resolution shall determine or the bylaws of the board may prescribe. Special or deferred meetings may be held from time to time as circumstances may demand, at the call of the president, if a first class district, or the chair of the board, if a second class district, or on petition of a majority of the members of the board. All meetings shall be open to the public unless the board shall otherwise order an executive session as provided in RCW 42.30.110. [1990 c 33 § 315; 1983 c 3 § 35; 1975 c 43 § 6; 1969 ex.s. c 223 § 28A.57.324. Prior: (i) 1909 c 97 p 291 § 9; RRS § 4798; prior: 1897 c 118 § 86; 1890 p 389 § 13. Formerly RCW 28.62.090. (ii) 1965 ex.s. c 87 § 1; 1909 c 97 p 299 § 6; RRS § 4816. Formerly RCW 28.63.030. (iii) 1965 ex.s. c 87 § 2; 1909 c 97 p 302 § 6; RRS § 4828. Formerly RCW 28A.57.324, 28.63.032.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.315.230.

28A.315.520 Directors—Quorum—Failure to attend meetings may result in vacation of office. A majority of all members of the board of directors shall constitute a quorum. Absence of any board member from four consecutive regular meetings of the board, unless on account of sickness or authorized by resolution of the board, shall be sufficient cause for the remaining members of the board to declare by resolution that such board member position is vacated. [1971 c 53 § 4. Formerly RCW 28A.57.325.]

Severability—1971 c 53: See note following RCW 28A.315.400.

28A.315.530 Directors—Filling vacancies. (1) In case of a vacancy from any cause on the board of directors of a school district other than a reconstituted board resulting from reorganized school districts, a majority of the legally established number of board members shall fill such vacancy by appointment: PROVIDED, That should there exist fewer board members on the board of directors of a school district than constitutes a majority of the legally established number of board members, the educational service district board members of the district in which the school district is located by the vote of a majority of its legally established number of board members shall appoint a sufficient number of board members to constitute a legal majority on the board of directors of such school district; and the remaining vacancies on such board of directors shall be filled by such board of directors in accordance with the provisions of this section: PROVIDED FURTHER, That should any board of directors for whatever reason fail to fill a vacancy within ninety days from the creation of such vacancy, the members of the educational service district board of the district in which the school district is located by majority vote shall fill such vacancy.

(2) Appointees to fill vacancies on boards of directors of school districts shall meet the requirements provided by law for school directors and shall serve until the next regular school district election, at which time a successor shall be elected for the unexpired term.

(3) If a vacancy will be created by a board member who has submitted a resignation, that board member may not vote on the selection of his or her replacement. [1991 c 60 § 1; 1975 1st ex.s. c 275 § 100; 1971 c 53 § 2; 1969 ex.s. c 176 § 156; 1969 ex.s. c 223 § 28A.57.326. Prior: (i) 1909 c 97 p 292 § 12; RRS 4801; prior: 1907 c 31 § 3; 1897 c 118 § 89; 1890 p 390 § 16. Formerly RCW 28.62.120. (ii) 1909 c 97 p 298 § 3; RRS § 4813. Formerly RCW 28.63.020. (iii) 1909 c 97 p 301 § 3; RRS § 4825. Formerly RCW 28.63.022. (iv) 1959 c 216 § 7, part; 1955 c 157 § 14, part; prior: 1909 p 281 § 4, part; 1903 c 104 § 14, part; 1899 c 142 § 6, part; 1897 c 118 § 33, part; 1891 c 127 § 3, part; 1890 p 355 § 11, part; RRS § 4770, part. Formerly RCW 28A.57.326, 28.19.060, part.]

Severability—1971 c 53: See note following RCW 28A.315.400.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.315.540 Directors—Compensation—Waiver.

Each member of the board of directors of a school district may receive compensation of fifty dollars per day or portion thereof for attending board meetings and for performing other services on behalf of the school district, not to exceed four thousand eight hundred dollars per year, if the district board of directors has authorized by board resolution, at a regularly scheduled meeting, the provision of such compensation. A board of directors of a school district may authorize such compensation only from locally collected excess levy funds available for that purpose, and compensation for board members shall not cause the state to incur any present or future funding obligation.

Any director may waive all or any portion of his or her compensation under this section as to any month or months during his or her term of office, by a written waiver filed with the district as provided in this section. The waiver, to be effective, must be filed any time after the director's election and before the date on which the compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

The compensation provided in this section shall be in addition to any reimbursement for expenses paid to such directors by the school district. [1987 c 307 § 2. Formerly RCW 28A.57.327.]

Intent—1987 c 307: "The legislature declares it is the policy of the state to:

(1) Ensure, for the sake of educational excellence, that the electorate has the broadest possible field in which to choose qualified candidates for its school boards;

(2) Ensure that the opportunity to serve on school boards be open to all, regardless of financial circumstances; and

(3) Ensure that the time-consuming and demanding service as directors not be limited to those able or willing to make substantial personal and financial sacrifices." [1987 c 307 § 1.]

Effective date—1987 c 307: "This act shall take effect on September 1, 1987." [1987 c 307 § 3.]

28A.315.550 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 or her 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.315.450. [1990 c 33 § 316; 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 28A.57.328, 28.57.350, part.]

Severability—1980 c 35: See note following RCW 28A.315.450.

Purpose—1979 ex.s. c 126: See RCW 29.04.170(1).

Effective date—Severability—1975 c 43: See notes following RCW 28A.315.230.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.315.560 Directors—Candidates in undivided districts to indicate term sought—How elected. Whenever the directors to be elected in a school district that is not divided into directors' districts are not all to be elected for the same term of years, the county auditor shall distinguish them and designate the same as provided for in *RCW 29.21.140, and assign position numbers thereto as provided in RCW 28A.315.470 and each candidate shall indicate on his or her declaration of candidacy the term for which he or she seeks to be elected and position number for which he or she is filing. The candidate receiving the largest number of votes for each position shall be deemed elected. [1990 c 33 § 317; 1969 ex.s. c 223 § 28A.57.334. Prior: 1959 c 268 § 12. Formerly RCW 28A.57.334, 28.57.420.]

*Reviser's note: RCW 29.21.140 was recodified as RCW 29.15.140 pursuant to 1990 c 59 § 110, effective July 1, 1992.

28A.315.570 Directors—Terms in certain first class districts to be staggered. Any first class school district having a board of directors of five members as provided in RCW 28A.315.450 and which elects directors for a term of

six years under the provisions of RCW 29.13.060 shall cause the office of at least one director and no more than two directors to be up for election at each regular school district election held hereafter and, except as provided in RCW 28A.315.680, any first class school district having a board of directors of seven members as provided in RCW 28A.315.450 shall cause the office of two directors and no more than three directors to be up for election at each regular school district election held hereafter. [1990 c 33 § 318; 1969 c 131 § 11; 1969 ex.s. c 223 § 28A.57.336. Prior: 1959 c 268 § 13. Formerly RCW 28A.57.336, 28.57.430.]

28A.315.580 Directors' districts in certain school districts—Submittal of proposition at formation election. Whenever an election shall be held for the purpose of securing the approval of the voters for the formation of a new school district other than a school district of the first class having within its boundaries a city with a population of four hundred thousand people or more, if requested by one of the boards of directors of the school districts affected, there shall also be submitted to the voters at the same election a proposition to authorize the board of directors to divide the school district, if formed, into five directors' districts in first class school districts and a choice of five directors' districts or no fewer than three directors' districts with the balance of the directors to be elected at large in second class school districts. Such director districts in second class districts, if approved, shall not become effective until the regular school election following the next regular school election at which time a new board of directors shall be elected as provided in RCW 28A.315.550. Such director districts in first class districts, if approved, shall not become effective until the next regular school election at which time a new board of directors shall be elected as provided in RCW 28A.315.600, 28A.315.610, and 28A.315.620. Each of the five directors shall be elected from among the residents of the respective director district, or from among the residents of the entire school district in the case of directors at large, by the electors of the entire school district. [1991 c 363 § 22; 1991 c 288 § 3. Prior: 1990 c 161 § 5; 1990 c 33 § 319; 1985 c 385 § 27; 1979 ex.s. c 183 § 2; 1975 c 43 § 8; 1973 2nd ex.s. c 21 § 2; 1971 c 67 § 2; 1969 ex.s. c 223 § 28A.57.342; prior: 1959 c 268 § 4. Formerly RCW 28A.57.342, 28.57.342.]

Reviser's note: This section was amended by 1991 c 288 § 3 and by 1991 c 363 § 22, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Severability—1985 c 385: See note following RCW 28A.315.020.

Effective date—1979 ex.s. c 183: "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 on July 1, 1979." [1979 ex.s. c 183 § 12.]

Severability—1979 ex.s. c 183: "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." [1979 ex.s. c 183 § 13.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.315.230.

28A.315.590 Directors' districts in certain school districts—Election to authorize division in school districts not already divided into directors' districts. The board of directors of every first class school district other than a school district of the first class having within its boundaries a city with a population of four hundred thousand people or more which is not divided into directors' districts may submit to the voters at any regular school district election a proposition to authorize the board of directors to divide the district into directors' districts or for second class school districts into director districts or a combination of no fewer than three director districts and no more than two at large positions. If a majority of the votes cast on the proposition is affirmative, the board of directors shall proceed to divide the district into directors' districts following the procedure established in RCW 29.70.100. Such director districts, if approved, shall not become effective until the next regular school election when a new five member board of directors shall be elected, one from each of the director districts from among the residents of the respective director district, or from among the residents of the entire school district in the case of directors at large, by the electors of the entire district, two for a term of two years and three for a term of four years, unless such district elects its directors for six years, in which case, one for a term of two years, two for a term of four years, and two for a term of six years. [1991 c 363 § 23; 1991 c 288 § 4; 1990 c 161 § 6; 1985 c 385 § 28; 1979 ex.s. c 183 § 3; 1975 c 43 § 9; 1973 2nd ex.s. c 21 § 3; 1971 c 67 § 8; 1969 ex.s. c 223 § 28A.57.344. Prior: 1959 c 268 § 3. Formerly RCW 28A.57.344, 28.57.344.]

Reviser's note: This section was amended by 1991 c 288 § 4 and by 1991 c 363 § 23, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Severability—1985 c 385: See note following RCW 28A.315.020.

Effective date—Severability—1979 ex.s. c 183: See notes following RCW 28A.315.580.

Effective date—Severability—1975 c 43: See notes following RCW 28A.315.230.

28A.315.593 Division or redistricting of district into director districts. It is the responsibility of each school district board of directors to prepare for the division or redistricting of the district into director districts no later than eight months after any of the following:

- (1) Receipt of federal decennial census data from the redistricting commission established in RCW 44.05.030;
- (2) Consolidation of two or more districts into one district under RCW 28A.315.270;
- (3) Transfer of territory to or from the district under RCW 28A.315.280;
- (4) Annexation of territory to or from the district under RCW 28A.315.290 or 28A.315.320; or
- (5) Approval by a majority of the registered voters voting on a proposition authorizing the division of the district into director districts pursuant to RCW 28A.315.590.

The districting or redistricting plan shall be consistent with the criteria and adopted according to the procedure established under RCW 29.70.100. [1991 c 288 § 1.]

28A.315.597 District boundary changes—Submission to county auditor. (1) Any district boundary changes, including changes in director district boundaries, shall be submitted to the county auditor by the school district board of directors within thirty days after the changes have been approved by the board. The board shall submit both legal descriptions and maps.

(2) Any boundary changes submitted to the county auditor after the fourth Monday in June of odd-numbered years shall not take effect until the following year. [1991 c 288 § 9.]

28A.315.600 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.315.580 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 county with a population of two hundred ten thousand or more 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. [1991 c 363 § 24; 1990 c 33 § 320; 1980 c 35 § 3; 1979 ex.s. c 126 § 6; 1975 1st ex.s. c 275 § 102; 1971 c 67 § 3. Formerly RCW 28A.57.355.]

~~Purpose—Captions not law—1991 c 363:~~ See notes following RCW 2.32.180.

~~Severability—1980 c 35:~~ See note following RCW 28A.315.450.

~~Purpose—1979 ex.s. c 126:~~ See RCW 29.04.170(1).

28A.315.610 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.315.580 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 county with a population of two hundred ten thousand or more 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. [1991 c 363 § 25; 1990 c 33 § 321; 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. Formerly RCW 28A.57.356.]

~~Purpose—Captions not law—1991 c 363:~~ See notes following RCW 2.32.180.

~~Severability—1980 c 35:~~ See note following RCW 28A.315.450.

~~Purpose—1979 ex.s. c 126:~~ See RCW 29.04.170(1).

~~Effective date—Severability—1975 c 43:~~ See notes following RCW 28A.315.230.

28A.315.620 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.315.580 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 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.

[1991 c 363 § 26; 1990 c 33 § 322; 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. Formerly RCW 28A.57.357.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Severability—1980 c 35: See note following RCW 28A.315.450.

Severability—1980 c 47: See note following RCW 28A.315.450.

Effective date—Severability—1979 ex.s. c 183: See notes following RCW 28A.315.580.

Purpose—1979 ex.s. c 126: See RCW 29.04.170(1).

Effective date—Severability—1975 c 43: See notes following RCW 28A.315.230.

28A.315.630 Directors—Number and terms of in new first class district having city with population of 400,000 people or more. 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, 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.315.670. 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.315.460.

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. [1991 c 363 § 27; 1990 c 33 § 323; 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. Formerly RCW 28A.57.358.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Severability—1980 c 35: See note following RCW 28A.315.450.

Severability—1980 c 47: See note following RCW 28A.315.450.

Effective date—Severability—1979 ex.s. c 183: See notes following RCW 28A.315.580.

Purpose—1979 ex.s. c 126: See RCW 29.04.170(1).

Effective date—Severability—1975 c 43: See notes following RCW 28A.315.230.

Directors—First class districts having city with population of 400,000 people or more—Terms: RCW 28A.315.460.

28A.315.640 Directors—Map and record of directors' districts. Each educational service district superintendent shall prepare and keep in his or her office (1) a map showing the boundaries of the directors' districts of all school districts in or belonging to his or her educational service district that are so divided, and (2) a record of the action taken by the regional committee in establishing such boundaries. [1990 c 33 § 324; 1985 c 385 § 29; 1975 1st ex.s. c 275 § 106; 1969 ex.s. c 176 § 140; 1969 ex.s. c 223 § 28A.57.390. Prior: 1947 c 266 § 38; Rem. Supp. 1947 § 4693-57. Formerly RCW 28A.57.390, 28.57.390.]

Severability—1985 c 385: See note following RCW 28A.315.020.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.315.650 Directors—Terms specified for directors in divided districts whose terms are not the same. Whenever all directors to be elected in a school district that is divided into directors' districts are not all to be elected for the same term of years, the county auditor, prior to the date set by law for filing a declaration of candidacy for the office of director, shall determine by lot the directors' districts from which directors shall be elected for a term of two years and the directors' districts from which directors shall be elected for a term of four years. In districts with a combination of directors' districts and directors at large, the county auditor shall determine the terms of office in such a manner that two-year terms and four-year terms are distributed evenly to the extent possible between the director district and at large positions. Each candidate shall indicate on his or her declaration of candidacy the directors' district from which he or she seeks to be elected or whether the candidate is seeking election as a director at large. [1990 c 161 § 7; 1990 c 33 § 325; 1969 ex.s. c 223 § 28A.57.410. Prior: 1959 c 268 § 11. Formerly RCW 28A.57.410, 28.57.410.]

Reviser's note: This section was amended by 1990 c 33 § 325 and by 1990 c 161 § 7, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

28A.315.660 Directors—Dissolution of directors' districts. Upon receipt by the educational service district superintendent of a resolution adopted by the board of directors or a written petition from a second class school district signed by at least twenty percent of the registered voters of a school district previously divided into directors' districts, which resolution or petition shall request dissolution of the existing directors' districts and reapportionment of the district into no fewer than three directors' districts and with no more than two directors at large, the superintendent, after formation of the question to be submitted to the voters, shall give notice thereof to the county auditor who shall call and hold a special election of the voters of the entire school district to approve or reject such proposal, such election to be called, conducted and the returns canvassed as in regular school district elections.

If approval of a majority of those registered voters voting in said election is acquired, at the expiration of terms of the incumbent directors of such school district their successors shall be elected in the manner approved. [1990 c 161 § 3; 1990 c 33 § 326; 1975-'76 2nd ex.s. c 15 § 9. Prior: 1975 1st ex.s. c 275 § 107; 1975 c 43 § 13; 1971 c

48 § 27; 1969 ex.s. c 223 § 28A.57.415. Formerly RCW 28A.57.415.]

Reviser's note: This section was amended by 1990 c 33 § 326 and by 1990 c 161 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—Severability—1975 c 43: See notes following RCW 28A.315.230.

Severability—1971 c 48: See note following RCW 28A.305.040.

28A.315.670 Directors' districts in first class districts having city with population of 400,000 people or more—Boundaries—Director candidate eligibility—Declaration of candidacy—Primary limited to voters within district—Terms of directors. Notwithstanding any other provision of law, any school district of the first class having within its boundaries a city with a population of four hundred thousand people or more shall be divided into seven director districts. The boundaries of such director districts shall be established by the members of the school board, such boundaries to be established so that each such district shall comply, as nearly as practicable, with the criteria established in RCW 29.70.100. Boundaries of such director districts shall be adjusted by the school board following the procedure established in RCW 29.70.100 after each federal decennial census if population change shows the need thereof to comply with the criteria of RCW 29.70.100. No person shall be eligible for the position of school director in any such director district unless such person resides in the particular director district. Residents in the particular director district desiring to be a candidate for school director shall file their declarations of candidacy for such director district and for the position of director in that district and shall be voted upon, in any primary required to be held for the position under Title 29 RCW, by the registered voters of that particular director district. In the general election, each position shall be voted upon by all the registered voters in the school district. The order of the names of candidates shall appear on the primary and general election ballots as required for nonpartisan positions under Title 29 RCW. Except as provided in RCW 28A.315.680, every such director so elected in school districts divided into seven director districts shall serve for a term of four years as otherwise provided in RCW 28A.315.460. [1991 c 363 § 28; 1991 c 288 §§ 5, 6. Prior: 1990 c 59 § 99; 1990 c 33 § 327; 1979 ex.s. c 183 § 6; 1973 2nd ex.s. c 21 § 5; 1969 c 131 § 9. Formerly RCW 28A.57.425.]

Reviser's note: This section was amended by 1991 c 288 §§ 5, 6 and by 1991 c 363 § 28, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective dates—1991 c 363 §§ 28, 29, 33, 47, 131: "(1) Sections 28, 29, 33, and 131 of this act shall take effect July 1, 1992.

(2) Section 47 of this act shall take effect July 1, 1993." [1991 c 363 § 165.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Effective date—1991 c 288 §§ 6, 8: "Sections 6 and 8 of this act shall take effect July 1, 1992." [1991 c 288 § 12.]

Expiration date—1991 c 288 §§ 5, 7: "Sections 5 and 7 of this act shall expire July 1, 1992." [1991 c 288 § 11.]

Intent—Effective date—1990 c 59: See notes following RCW 29.01.006.

Effective date—Severability—1979 ex.s. c 183: See notes following RCW 28A.315.580.

28A.315.680 Directors' districts in first class districts having city with population of 400,000 people or more—Initial district boundaries—Appointments to fill vacancies for new director districts—Director district numbers. The school boards of any school district of the first class having within its boundaries a city with a population of four hundred thousand people or more shall establish the director district boundaries. Appointment of a board member to fill any vacancy existing for a new director district prior to the next regular school election shall be by the school board. Prior to the next regular election in the school district and the filing of declarations of candidacy therefor, the incumbent school board shall designate said director districts by number. Directors appointed to fill vacancies as above provided shall be subject to election, one for a six-year term, and one for a two-year term and thereafter the term of their respective successors shall be for four years. The term of office of incumbent members of the board of such district shall not be affected by RCW 28A.315.450, 28A.315.460, 28A.315.570, 28A.315.670, 28A.315.680, and *29.21.180. [1991 c 363 § 29; 1991 c 288 §§ 7, 8. Prior: 1990 c 59 § 72; 1990 c 33 § 328; 1983 c 3 § 36; 1979 ex.s. c 183 § 7; 1973 2nd ex.s. c 21 § 6; 1969 c 131 § 10. Formerly RCW 28A.57.435.]

Reviser's note: (1) This section was amended by 1991 c 288 §§ 7, 8 and by 1991 c 363 § 29, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

(2) RCW 29.21.180 was repealed by 1990 c 59 § 112, effective July 1, 1992.

Effective dates—1991 c 363 §§ 28, 29, 33, 47, 131: See note following RCW 28A.315.670.

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Effective date—1991 c 288 §§ 6, 8: See note following RCW 28A.315.670.

Intent—Effective date—1990 c 59: See notes following RCW 29.01.006.

Effective date—Severability—1979 ex.s. c 183: See notes following RCW 28A.315.580.

28A.315.690 Change of district name—Authorized—Petition for. Any school district in the state, regardless of size or method of organization, may change its name in the following manner: Upon receipt of a petition signed by ten percent of the registered voters of the district, requesting that the name of the school district shall be changed and submitting with said request a proposed name, the school board shall accept or reject the petition within the time for the next two regular meetings. If the petition is rejected, the board's action shall not be appealed. [1969 ex.s. c 223 § 28A.58.600. Prior: 1967 ex.s. c 69 § 1. Formerly RCW 28A.58.600, 28.58.600.]

28A.315.700 Change of district name—Public hearing on—Notice of—Hearing may include additional petitions. If the petition is accepted, the board shall set a date for a public hearing thereon to be held within one month of the date of acceptance and cause notice thereof, together with the proposed new name to be published once

a week for three consecutive weeks in a newspaper of general circulation within the school district: PROVIDED, That additional petitions for change of name may be heard at the same public hearing without the necessity of additional publication of notice, so long as the additional proposed names are presented at any board meeting, whether special or regular, including at the public hearing. At the hearing any interested elector who is a resident of the school district may appear and speak for or against the propositions. [1969 ex.s. c 223 § 28A.58.601. Prior: 1967 ex.s. c 69 § 2. Formerly RCW 28A.58.601, 28.58.601.]

28A.315.710 Change of district name—Board selection of name for voter approval. Within two regular meetings after the public hearing the board shall select one name to present to the residents of the school district for their approval or rejection at the next special or general election. [1969 ex.s. c 223 § 28A.58.602. Prior: 1967 ex.s. c 69 § 3. Formerly RCW 28A.58.602, 28.58.602.]

28A.315.720 Change of district name—Procedure upon voter approval—Recording—Notice to interested institutions. If a majority of the electors voting at the election at which the proposed name is voted upon approve the proposed name, the new name shall be recorded in the school district office, the office of the educational service district superintendent, the offices of the state superintendent of public instruction and the state board of education.

All institutions which have a legal or financial interest in the status of a school district whose name has been changed shall be notified in a manner prescribed by the state attorney general. [1975 1st ex.s. c 275 § 114; 1971 c 48 § 32; 1969 ex.s. c 223 § 28A.58.603. Prior: 1967 ex.s. c 69 § 4. Formerly RCW 28A.58.603, 28.58.603.]

Severability—1971 c 48: See note following RCW 28A.305.040.

28A.315.900 Proceedings as of July 28, 1985—Effect of 1985 c 385. Any proceeding or hearing now or hereafter initiated, being considered, or in progress pursuant to this chapter as of July 28, 1985, or thereafter which is interrupted by a change in committee membership by chapter 385, Laws of 1985 shall continue and be assumed and decided with equal force and effect by the initial regional committees and all other successor committees provided for in RCW 28A.315.060 and 28A.315.120: PROVIDED, That such committees may elect to reconduct proceedings on hearings already in progress and shall reconduct wholly or partially completed hearings required pursuant to this chapter unless the majority of the committee deciding the matter have either read or heard previously submitted testimony and evidence. [1990 c 33 § 329; 1985 c 385 § 38. Formerly RCW 28A.57.900.]

Severability—1985 c 385: See note following RCW 28A.315.020.

Chapter 28A.320

PROVISIONS APPLICABLE TO ALL DISTRICTS

Sections

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DISTRICT POWERS

28A.320.010 Corporate powers. A school district shall constitute a body corporate and shall possess all the usual powers of a public corporation, and in that name and style may sue and be sued and transact all business necessary for maintaining school and protecting the rights of the district, and enter into such obligations as are authorized therefor by law. [1969 ex.s. c 223 § 28A.58.010. Prior: (i) 1909 c 97 p 287 § 7, part; RRS § 4782, part; prior: 1897 c 118 § 44, part; 1891 c 127 § 11, part; 1890 p 366 § 30, part. Formerly RCW 28.58.040, part. (ii) 1947 c 266 § 6, part; Rem. Supp. 1947 § 4693-25, part; prior: 1909 c 97 p 265 § 2, part. Formerly RCW 28A.58.010, 28.57.135, 28.58.010.]

28A.320.015 School boards of directors—Powers—Notice of adoption of policy. (1) The board of directors of each school district may exercise the following:

(a) The broad discretionary power to determine and adopt written policies not in conflict with other law that provide for the development and implementation of programs, activities, services, or practices that the board determines will:

(i) Promote the education of kindergarten through twelfth grade students in the public schools; or

(ii) Promote the effective, efficient, or safe management and operation of the school district;

(b) Such powers as are expressly authorized by law; and
(c) Such powers as are necessarily or fairly implied in the powers expressly authorized by law.

(2) Before adopting a policy under subsection (1)(a) of this section, the school district board of directors shall comply with the notice requirements of the open public meetings act, chapter 42.30 RCW, and shall in addition include in that notice a statement that sets forth or reasonably describes the proposed policy. The board of directors shall provide a reasonable opportunity for public written and oral comment and consideration of the comment by the board of directors. [1992 c 141 § 301.]

Findings—Part headings—Severability—1992 c 141: See note following RCW 28A.410.040.

28A.320.020 Liability for debts and judgments. Every school district shall be liable for any debts legally due, and for judgments against the district, and such district shall pay any such judgment or liability out of the proper school funds to the credit of the district. [1969 ex.s. c 223 § 28A.58.020. Prior: 1909 c 97 p 287 § 4; RRS § 4779; prior: 1897 c 118 § 41; 1890 p 365 § 27. Formerly RCW 28A.58.020, 28.58.020.]

28A.320.030 Gifts, conveyances, etc., for scholarship and student aid purposes, receipt and administration. The board of directors of any school district may accept, receive and administer for scholarship and student aid purposes such gifts, grants, conveyances, devises and bequests of personal or real property, in trust or otherwise, for the use or benefit of the school district or its students; and sell, lease, rent or exchange and invest or expend the same or the proceeds, rents, profits and income thereof

according to the terms and conditions thereof, if any, for the foregoing purposes; and enter into contracts and adopt regulations deemed necessary by the board to provide for the receipt and expenditure of the foregoing. [1974 ex.s. c 8 § 1. Formerly RCW 28A.58.030.]

28A.320.040 Bylaws for board and school government. Every board of directors shall have power to make such bylaws for their own government, and the government of the common schools under their charge, as they deem expedient, not inconsistent with the provisions of this title, or rules and regulations of the superintendent of public instruction or the state board of education. [1969 ex.s. c 223 § 28A.58.110. Prior: 1909 c 97 p 287 § 6; RRS § 4781; prior: 1897 c 118 § 43; 1890 p 366 § 29. Formerly RCW 28A.58.110, 28.58.110.]

28A.320.050 Reimbursement of expenses of directors, other school representatives, and superintendent candidates—Advancing anticipated expenses. The actual expenses of school directors in going to, returning from and attending upon directors' meetings or other meetings called or held pursuant to statute shall be paid. Likewise, the expenses of school superintendents and other school representatives chosen by the directors to attend any conferences or meetings or to attend to any urgent business at the behest of the state superintendent of public instruction or the board of directors shall be paid. The board of directors may pay the actual and necessary expenses for travel, lodging and meals a superintendent candidate incurs when he or she attends an employment interview in the school district. The school directors, school superintendents, other school representatives or superintendent candidates may be advanced sufficient sums to cover their anticipated expenses in accordance with rules and regulations promulgated by the state auditor and which shall substantially conform to the procedures provided in RCW 43.03.150 through 43.03.210. [1977 c 73 § 1; 1969 ex.s. c 26 § 2; 1969 ex.s. c 223 § 28A.58.310. Prior: 1961 c 268 § 15; prior: 1919 c 90 § 6, part; 1909 c 97 p 287 § 8, part; RRS § 4783, part. Formerly RCW 28A.58.310, 28.58.310.]

28A.320.060 Officers, employees or agents of school districts or educational service districts, insurance to protect and hold personally harmless. Any school district board of directors and educational service district board are authorized to purchase insurance to protect and hold personally harmless any director, officer, employee or agent of the respective school district or educational service district from any action, claim or proceeding instituted against him or her arising out of the performance or failure of performance of duties for or employment with such institution and to hold him or her harmless from any expenses connected with the defense, settlement or monetary judgments from such actions. [1990 c 33 § 330; 1975 1st ex.s. c 275 § 116; 1972 ex.s. c 142 § 2. Formerly RCW 28A.58.630.]

28A.320.070 School district as self-insurer—Authority. Any school district board of directors is authorized to enter into agreements with the board of directors of other school districts and/or educational service districts to

form a self-insurance group for the purpose of qualifying as a self-insurer under chapter 51.14 RCW. [1982 c 191 § 10. Formerly RCW 28A.58.410.]

Effective date—Severability—1982 c 191: See notes following RCW 28A.315.270.

School districts as self-insurers: RCW 51.14.150 and 51.14.160.

28A.320.080 Commencement exercises—Lip reading instruction—Joint purchasing, including issuing interest bearing warrants and agreements with private schools—Budgets. Every board of directors, unless otherwise specifically provided by law, shall:

(1) Provide for the expenditure of a reasonable amount for suitable commencement exercises;

(2) In addition to providing free instruction in lip reading for children handicapped by defective hearing, make arrangements for free instruction in lip reading to adults handicapped by defective hearing whenever in its judgment such instruction appears to be in the best interests of the school district and adults concerned;

(3) Join with boards of directors of other school districts or an educational service district pursuant to RCW 28A.310.180(3), or both such school districts and educational service district in buying supplies, equipment and services by establishing and maintaining a joint purchasing agency, or otherwise, when deemed for the best interests of the district, any joint agency formed hereunder being herewith authorized and empowered to issue interest bearing warrants in payment of any obligation owed: **PROVIDED, HOWEVER,** That those agencies issuing interest bearing warrants shall assign accounts receivable in an amount equal to the amount of the outstanding interest bearing warrants to the county treasurer issuing such interest bearing warrants: **PROVIDED FURTHER,** That the joint purchasing agency shall consider the request of any one or more private schools requesting the agency to jointly buy supplies, equipment, and services including but not limited to school bus maintenance services, and, after considering such request, may cooperate with and jointly make purchases with private schools of supplies, equipment, and services, including but not limited to school bus maintenance services, so long as such private schools pay in advance their proportionate share of the costs or provide a surety bond to cover their proportionate share of the costs involved in such purchases;

(4) Consider the request of any one or more private schools requesting the board to jointly buy supplies, equipment and services including but not limited to school bus maintenance services, and, after considering such request, may provide such joint purchasing services: **PROVIDED,** That such private schools pay in advance their proportionate share of the costs or provide a surety bond to cover their proportionate share of the costs involved in such purchases; and

(5) Prepare budgets as provided for in chapter 28A.505 RCW. [1990 c 33 § 331; 1986 c 77 § 1; 1983 c 125 § 1; 1981 c 308 § 1; 1979 ex.s. c 66 § 2; 1971 c 26 § 1; 1969 c 53 § 2; 1969 ex.s. c 223 § 28A.58.107. Prior: 1969 c 53 § 1, part; 1967 ex.s. c 29 § 1, part; 1967 c 12 § 1, part; 1965 ex.s. c 49 § 1, part; 1963 c 104 § 1, part; 1963 c 5 § 1, part; 1961 c 305 § 1, part; 1961 c 237 § 1, part; 1961 c 66 § 1, part; 1955 c 68 § 2, part; prior: 1943 c 52 § 1, part; 1941

c 179 § 1, part; 1939 c 131 § 1, part; 1925 ex.s. c 57 § 1, part; 1919 c 89 § 3, part; 1915 c 44 § 1, part; 1909 c 97 p 285 § 2, part; 1907 c 240 § 5, part; 1903 c 104 § 17, part; 1901 c 41 § 3, part; 1897 c 118 § 40, part; 1890 p 364 § 26, part; Rem. Supp. 1943 § 4776, part. Formerly RCW 28A.58.107, 28.58.100(7), (13) and (14).]

Severability—1981 c 308: "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." [1981 c 308 § 3.]

Severability—1979 ex.s. c 66: See note following RCW 28A.310.180.

28A.320.090 Preparing and distributing information on district's instructional program, operation and maintenance—Limitation. The board of directors of any school district shall have authority to authorize the expenditure of funds for the purpose of preparing and distributing information to the general public to explain the instructional program, operation and maintenance of the schools of the district: **PROVIDED,** That nothing contained herein shall be construed to authorize preparation and distribution of information to the general public for the purpose of influencing the outcome of a school district election. [1969 ex.s. c 283 § 11. Formerly RCW 28A.58.610, 28.58.610.]

Severability—1969 ex.s. c 283: See note following RCW 28A.150.050.

28A.320.100 Actions against officers, employees or agents of school districts and educational service districts—Defense, costs, fees—Payment of obligation. Whenever any action, claim or proceeding is instituted against any director, officer, employee or agent of a school district or educational service district arising out of the performance or failure of performance of duties for, or employment with any such district, the board of directors of the school district or educational service district board, as the case may be, may grant a request by such person that the prosecuting attorney and/or attorney of the district's choosing be authorized to defend said claim, suit or proceeding, and the costs of defense, attorney's fees, and any obligation for payment arising from such action may be paid from the school district's general fund, or in the case of an educational service district, from any appropriation made for the support of the educational service district, to which said person is attached: **PROVIDED,** That costs of defense and/or judgment against such person shall not be paid in any case where the court has found that such person was not acting in good faith or within the scope of his or her employment with or duties for the district. [1990 c 33 § 332; 1975 1st ex.s. c 275 § 115; 1972 ex.s. c 142 § 1. Formerly RCW 28A.58.620.]

28A.320.110 Information and research services. For the purpose of obtaining information on school organization, administration, operation, finance and instruction, school districts and educational service districts may contract for or purchase information and research services from public universities, colleges and other public bodies, or from private individuals or agencies. For the same purpose, school districts and educational service district superintendents may become members of any nonprofit organization whose

principal purpose is to provide such services. Charges payable for such services and membership fees payable to such organizations may be based on the cost of providing such services, on the benefit received by the participating school districts measured by enrollment, or on any other reasonable basis, and may be paid before, during, or after the receipt of such services or the participation as members of such organizations. [1975 1st ex.s. c 275 § 112; 1971 ex.s. c 93 § 4; 1969 ex.s. c 176 § 142; 1969 ex.s. c 223 § 28A.58.530. Prior: 1963 c 30 § 1. Formerly RCW 28A.58.530, 28.58.530.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.320.120 Cooperation with technical colleges—Jurisdiction over property—Administrative charges—Discrimination against employees of technical colleges prohibited—Dispute resolution. As of May 17, 1991, school districts shall not remove facilities, equipment, or property from the jurisdiction or use of the technical colleges. This shall include direct and indirect funds other than those indirect charges provided for in the 1990-91 appropriations act. School districts shall not increase direct or indirect charges for central district administrative support for technical college programs above the percentage rate charged in the 1990-91 school year. This provision on administrative charges for technical college programs shall apply to any state and federal grants, tuition, and other revenues generated by technical college programs. School districts and the superintendent of public instruction shall cooperate fully with the technical colleges and the state board for community and technical colleges with regard to the implementation of chapter 238, Laws of 1991. No employee of a technical college may be discriminated against based on actions or opinions expressed on issues surrounding chapter 238, Laws of 1991. Any dispute related to issues contained in this section shall be resolved under RCW 28B.50.302. [1991 c 238 § 142.]

Effective dates—Severability—1991 c 238: See RCW 28B.50.917 and 28B.50.918.

PROGRAM EVALUATION

28A.320.200 Self-study process by school districts—Requirements—Rules. (Contingent expiration date.) (1) Each school district board of directors shall develop a schedule and process by which each public school within its jurisdiction shall undertake self-study procedures on a regular basis: PROVIDED, That districts may allow two or more elementary school buildings in the district to undertake jointly the self-study process. Each school may follow the accreditation process developed by the state board of education under RCW 28A.305.130(6), although no school is required to file for actual accreditation, or the school may follow a self-study process developed locally. The initial self-study process within each district shall begin by September 1, 1986, and should be completed for all schools within a district by the end of the 1990-91 school year.

(2) Any self-study process must include the participation of staff, parents, members of the community, and students, where appropriate to their age.

(3) The self-study process that is used must focus upon the quality and appropriateness of the school's educational program and the results of its operational effort. The primary emphasis throughout the process shall be placed upon:

- (a) Achieving educational excellence and equity;
- (b) Building stronger links with the community; and
- (c) Reaching consensus upon educational expectations through community involvement and corresponding school management.

(4) The state board of education shall adopt rules governing procedural criteria. Such rules should be flexible so as to accommodate local goals and circumstances. The rules may allow for waiver of the self-study for economic reasons and may also allow for waiver of the initial self-study if a district or its schools have participated successfully in an official accreditation process or in a similar assessment of educational programs within the last three years. The self-study process shall be conducted on a cyclical basis every seven years following the initial 1990-91 period.

(5) The superintendent of public instruction shall provide training to assist districts in their self-studies.

(6) Each district shall report every two years to the superintendent of public instruction on the scheduling and implementation of their self-study activities. The report shall include information about how the district and each school within the district have addressed the issue of class size and staffing patterns. [1990 c 33 § 333; 1989 c 83 § 1; 1988 c 256 § 2; 1985 c 349 § 2. Formerly RCW 28A.58.085.]

Reviser's note: See note following RCW 28A.630.885.

Severability—1985 c 349: See note following RCW 28A.630.800.

28A.320.230 Instructional materials—Instructional materials committee. Every board of directors, unless otherwise specifically provided by law, shall:

(1) Prepare, negotiate, set forth in writing and adopt, policy relative to the selection or deletion of instructional materials. Such policy shall:

(a) State the school district's goals and principles relative to instructional materials;

(b) Delegate responsibility for the preparation and recommendation of teachers' reading lists and specify the procedures to be followed in the selection of all instructional materials including text books;

(c) Establish an instructional materials committee to be appointed, with the approval of the school board, by the school district's chief administrative officer. This committee shall consist of representative members of the district's professional staff, including representation from the district's curriculum development committees, and, in the case of districts which operate elementary school(s) only, the educational service district superintendent, one of whose responsibilities shall be to assure the correlation of those elementary district adoptions with those of the high school district(s) which serve their children. The committee may include parents at the school board's discretion: PROVIDED, That parent members shall make up less than one-half of the total membership of the committee;

(d) Provide for reasonable notice to parents of the opportunity to serve on the committee and for terms of office for members of the instructional materials committee;

(e) Provide a system for receiving, considering and acting upon written complaints regarding instructional materials used by the school district;

(f) Provide free text books, supplies and other instructional materials to be loaned to the pupils of the school, when, in its judgment, the best interests of the district will be subserved thereby and prescribe rules and regulations to preserve such books, supplies and other instructional materials from unnecessary damage.

Recommendation of instructional materials shall be by the district's instructional materials committee in accordance with district policy. Approval or disapproval shall be by the local school district's board of directors.

Districts may pay the necessary travel and subsistence expenses for expert counsel from outside the district. In addition, the committee's expenses incidental to visits to observe other districts' selection procedures may be reimbursed by the school district.

Districts may, within limitations stated in board policy, use and experiment with instructional materials for a period of time before general adoption is formalized.

Within the limitations of board policy, a school district's chief administrator may purchase instructional materials to meet deviant needs or rapidly changing circumstances.

(2) Establish a depreciation scale for determining the value of texts which students wish to purchase. [1989 c 371 § 1; 1979 ex.s. c 134 § 2; 1975 1st ex.s. c 275 § 109; 1971 c 48 § 29; 1969 ex.s. c 223 § 28A.58.103. Prior: 1969 c 53 § 1, part; 1967 ex.s. c 29 § 1, part; 1967 c 12 § 1, part; 1965 ex.s. c 49 § 1, part; 1963 c 104 § 1, part; 1963 c 5 § 1, part; 1961 c 305 § 1, part; 1961 c 237 § 1, part; 1961 c 66 § 1, part; 1955 c 68 § 2, part. Formerly RCW 28A.58.103, 28.58.100(8) and (9).]

Severability—1971 c 48: See note following RCW 28A.305.040.

Disposal of obsolete or surplus reading materials by school districts and libraries: RCW 39.33.070.

Surplus texts and other educational aids, notice of availability—Student priority as to texts: RCW 28A.335.180.

28A.320.240 Operation and stocking of libraries.

Every board of directors shall provide for the operation and stocking of such libraries as the board deems necessary for the proper education of the district's students or as otherwise required by law or rule or regulation of the superintendent of public instruction or the state board of education. [1969 ex.s. c 223 § 28A.58.104. Prior: (i) 1909 c 97 p 299 § 7; RRS § 4817. Formerly RCW 28.63.040. (ii) 1909 c 97 p 302 § 7; RRS § 4829. Formerly RCW 28A.58.104, 28.63.042.]

DEPOSIT, INVESTMENT, AND USE OF PROCEEDS

28A.320.300 Investment of funds, including funds received by ESD—Authority—Procedure. Any common school district board of directors is empowered to direct and authorize, and to delegate authority to an employee, officer, or agent of the common school district or the educational service district to direct and authorize, the county treasurer to invest funds described in RCW 28A.320.310 and 28A.320.320 and funds from state and federal sources as are then or thereafter received by the educational service district,

and such funds from county sources as are then or thereafter received by the county treasurer, for distribution to the common school districts. Funds from state, county and federal sources which are so invested may be invested only for the period the funds are not required for the immediate necessities of the common school district as determined by the school district board of directors or its delegatee, and shall be invested in behalf of the common school district pursuant to the terms of RCW 28A.320.310, 28A.320.320, or 36.29.020 as the nature of the funds shall dictate. A grant of authority by a common school district pursuant to this section shall be by resolution of the board of directors and shall specify the duration and extent of the authority so granted. Any authority delegated to an educational service district pursuant to this section may be redelegated pursuant to RCW 28A.310.220. [1990 c 33 § 335; 1982 c 191 § 5; 1975 c 47 § 1. Formerly RCW 28A.58.430.]

Effective date—Severability—1982 c 191: See notes following RCW 28A.315.270.

Transportation vehicle fund—Deposits in—Use—Rules for establishment and use: RCW 28A.160.130.

28A.320.310 Investment of idle building funds—Restrictions. The board of directors of any school district of the state of Washington which now has, or hereafter shall have, funds in the capital projects fund of the district in the office of the county treasurer which in the judgment of said board are not required for the immediate necessities of the district, may invest and reinvest all, or any part, of such funds in United States securities, as hereinafter specified after and pursuant to a resolution adopted by the board, authorizing and directing the county treasurer, as ex officio the treasurer of said district, to invest or reinvest, said moneys or any designated amount thereof in United States securities and specifying the type or character of the United States securities in which said moneys shall be invested: PROVIDED, That nothing herein authorized, or the type and character of the securities thus specified, shall have in itself the effect of delaying any program of building for which said funds shall have been authorized. Said funds and said securities and the profit and interest thereon, and the proceeds thereof, shall be held by the county treasurer to the credit and benefit of the capital projects fund of the district in the county treasurer's office. If in the judgment of the board it shall be necessary to redeem or to sell any of the purchased securities before their ultimate maturity date, the board may, by resolution, direct the county treasurer to cause such redemption to be had at the "Redemption Value" of said securities or to sell said bonds and securities at not less than market value and accrued interest. The foregoing "securities" shall include United States bonds, federal treasury notes and treasury bonds and United States certificates of indebtedness and other federal securities which may, during the life of this statute, come within the terms of this section. [1990 c 33 § 336; 1985 c 7 § 95; 1971 c 8 § 4. Prior: 1945 c 29 § 1. Formerly RCW 28A.58.435.]

Severability—1971 c 8: "If any provision of this 1971 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 c 8 § 7.]

School funds enumerated—Deposits—Uses: RCW 28A.320.330.

28A.320.320 Investment of funds of district not needed for immediate necessities—Service fee. The county treasurer, or the trustee, guardian, or any other custodian of any school fund, when authorized to do so by the board of directors of any school district, shall invest or reinvest any school funds of such district in investment deposits in any qualified public depository, or any obligations, securities, certificates, notes, bonds, or short term securities or obligations, of the United States. The county treasurer shall have the power to select the particular investment in which said funds may be invested. All earnings and income from such investments shall inure to the benefit of any school fund designated by the board of directors of the school district which such board may lawfully designate: PROVIDED, That any interest or earnings being credited to a fund different from that which earned the interest or earnings shall only be expended for instructional supplies, equipment or capital outlay purposes. This section shall apply to all funds which may be lawfully so invested or reinvested which in the judgment of the school board are not required for the immediate necessities of the district.

Five percent of the interest or earnings, with an annual minimum of ten dollars or annual maximum of fifty dollars, on any transactions authorized by each resolution of the board of school directors shall be paid as an investment service fee to the office of county treasurer when the interest or earnings becomes available to the school district. [1983 c 66 § 1; 1969 ex.s. c 223 § 28A.58.440. Prior: 1965 c 111 § 1; 1961 c 123 § 1. Formerly RCW 28A.58.440, 28.58.440.]

Severability—1983 c 66: See note following RCW 39.58.010.

Investment of idle building funds—1945 act: 1945 c 29 § 1.

School funds enumerated—Deposits—Uses: RCW 28A.320.330.

28A.320.330 School funds enumerated—Deposits—Uses. School districts shall establish the following funds in addition to those provided elsewhere by law:

(1) A general fund for maintenance and operation of the school district to account for all financial operations of the school district except those required to be accounted for in another fund.

(2) A capital projects fund shall be established for major capital purposes. All statutory references to a "building fund" shall mean the capital projects fund so established. Money to be deposited into the capital projects fund shall include, but not be limited to, bond proceeds, proceeds from excess levies authorized by RCW 84.52.053, state apportionment proceeds as authorized by RCW 28A.150.270, and earnings from capital projects fund investments as authorized by RCW 28A.320.310 and 28A.320.320.

Money derived from the sale of bonds, including interest earnings thereof, may only be used for those purposes described in RCW 28A.530.010, except that accrued interest paid for bonds shall be deposited in the debt service fund.

Money to be deposited into the capital projects fund shall include but not be limited to rental and lease proceeds as authorized by RCW 28A.335.060, and proceeds from the sale of real property as authorized by RCW 28A.335.130.

Money legally deposited into the capital projects fund from other sources may be used for the purposes described in RCW 28A.530.010, and for the purposes of:

(a) Major renovation, including the replacement of facilities and systems where periodical repairs are no longer economical. Major renovation and replacement shall include, but shall not be limited to, roofing, heating and ventilating systems, floor covering, and electrical systems.

(b) Renovation and rehabilitation of playfields, athletic fields, and other district real property.

(c) The conduct of preliminary energy audits and energy audits of school district buildings. For the purpose of this section:

(i) "Preliminary energy audits" means a determination of the energy consumption characteristics of a building, including the size, type, rate of energy consumption, and major energy using systems of the building.

(ii) "Energy audit" means a survey of a building or complex which identifies the type, size, energy use level, and major energy using systems; which determines appropriate energy conservation maintenance or operating procedures and assesses any need for the acquisition and installation of energy conservation measures, including solar energy and renewable resource measures.

(iii) "Energy capital improvement" means the installation, or modification of the installation, of energy conservation measures in a building which measures are primarily intended to reduce energy consumption or allow the use of an alternative energy source.

(d) Those energy capital improvements which are identified as being cost-effective in the audits authorized by this section.

(e) Purchase or installation of additional major items of equipment and furniture: PROVIDED, That vehicles shall not be purchased with capital projects fund money.

(3) A debt service fund to provide for tax proceeds, other revenues, and disbursements as authorized in chapter 39.44 RCW.

(4) An associated student body fund as authorized by RCW 28A.325.030.

(5) Advance refunding bond funds and refunded bond funds to provide for the proceeds and disbursements as authorized in chapter 39.53 RCW. [1990 c 33 § 337; 1983 c 59 § 13; 1982 c 191 § 6; 1981 c 250 § 2. Formerly RCW 28A.58.441.]

Application—Effective date—Severability—1983 c 59: See notes following RCW 28A.505.010.

Effective date—Severability—1982 c 191: See notes following RCW 28A.315.270.

Effective date—1981 c 250: See note following RCW 28A.335.060.

ELECTORS—QUALIFICATIONS, VOTING PLACE, AND SPECIAL MEETINGS

28A.320.400 Elections—Qualifications of electors—Voting place. Qualifications of electors at all school elections shall be the same as at a general state or county election. Except as otherwise provided by law, only those electors residing within the district shall be entitled to vote, and an elector may vote only at the polling place designated by the proper election official. [1969 ex.s. c 223 §

28A.58.520. Prior: 1941 c 12 § 1; Rem. Supp. 1941 § 5025-1. Formerly RCW 28A.58.520, 28.58.520.]

28A.320.410 Elections—Elections to be conducted according to Title 29 RCW. All school district elections, regular or special, shall be conducted according to the election laws of the state as contained in Title 29 RCW, and in the event of a conflict as to the application of the laws of this title or Title 29 RCW, the latter shall prevail. [1969 ex.s. c 223 § 28A.58.521. Prior: 1965 c 123 § 8. Formerly RCW 28A.58.521, 28.58.521.]

28A.320.420 Special meetings of voters—Authorized—Purpose. Any board of directors at its discretion may, and, upon a petition of a majority of the legal voters of their district, shall call a special meeting of the voters of the district, to determine the length of time in excess of the minimum length of time prescribed by law that such school shall be maintained in the district during the year; to determine whether or not the district shall purchase any schoolhouse site or sites, and to determine the location thereof; or to determine whether or not the district shall build one or more schoolhouses or school facilities; or to determine whether or not the district shall sell any real or personal property belonging to the district, borrow money or establish and maintain a school district library. [1982 c 158 § 4; 1969 ex.s. c 223 § 28A.58.370. Prior: 1909 c 97 p 349 § 1; RRS § 5028; prior: 1901 c 177 § 18; 1897 c 118 § 156. Formerly RCW 28A.58.370, 28.58.370.]

Severability—1982 c 158: See note following RCW 28A.150.220.

28A.320.430 Special meetings of voters—Place, notice, procedure, record. All such special meetings shall be held at such schoolhouse or place as the board of directors may determine. The voting shall be by ballot, the ballots to be of white paper of uniform size and quality. At least ten days' notice of such special meeting shall be given by the school district superintendent, in the manner that notice is required to be given of the annual school election, which notice shall state the object or objects for which the meeting is to be held, and no other business shall be transacted at such meeting than such as is specified in the notice. The school district superintendent shall be the secretary of the meeting, and the chairman of the board of directors or, in his absence, the senior director present, shall be chairman of the meeting: PROVIDED, That in the absence of one or all of said officials, the qualified electors present may elect a chairman or secretary, or both chairman and secretary, of said meeting as occasion may require, from among their number. The secretary of the meeting shall make a record of the proceedings of the meeting, and when the secretary of such meeting has been elected by the qualified voters present, he or she shall within ten days thereafter, file the record of the proceedings, duly certified, with the superintendent of the district, and said records shall become a part of the records of the district, and be preserved as other records. [1990 c 33 § 338; 1969 ex.s. c 223 § 28A.58.380. Prior: 1909 c 97 p 350 § 2; RRS § 5029; prior: 1897 c 118 § 157. Formerly RCW 28A.58.380, 28.58.380, 28.58.390, part.]

28A.320.440 Special meetings of voters—Directors to follow electors' decision. It shall be the duty of every board of directors to carry out the directions of the electors of their districts as expressed at any such meeting. [1969 ex.s. c 223 § 28A.58.390. Prior: 1909 c 97 p 350 § 3; RRS § 5030; prior: 1897 c 118 § 158. Formerly RCW 28A.58.390, 28.58.390.]

SUMMER SCHOOL, NIGHT SCHOOL, EXTRACURRICULAR ACTIVITIES, AND ATHLETICS

28A.320.500 Summer and/or other student vacation period programs—Authorized—Tuition and fees. Every school district board of directors is authorized to establish and operate summer and/or other student vacation period programs and to assess such tuition and special fees as it deems necessary to offset the maintenance and operation costs of such programs in whole or part. A summer and/or other student vacation period program may consist of such courses and activities as the school district board shall determine to be appropriate: PROVIDED, That such courses and activities shall not conflict with the provisions of RCW 28A.305.130. Attendance shall be voluntary. [1990 c 33 § 339; 1974 ex.s. c 161 § 1. Formerly RCW 28A.58.080.]

28A.320.510 Night schools, summer schools, meetings, use of facilities for. Every board of directors, unless otherwise specifically provided by law, shall:

(1) Authorize school facilities to be used for night schools and establish and maintain the same whenever deemed advisable;

(2) Authorize school facilities to be used for summer schools or for meetings, whether public, literary, scientific, religious, political, mechanical, agricultural or whatever, upon approval of the board under such rules or regulations as the board of directors may adopt, which rules or regulations may require a reasonable rental for the use of such facilities. [1969 ex.s. c 223 § 28A.58.105. Prior: 1969 c 53 § 1, part; 1967 ex.s. c 29 § 1, part; 1967 c 12 § 1, part; 1965 ex.s. c 49 § 1, part; 1963 c 104 § 1, part; 1963 c 5 § 1, part; 1961 c 305 § 1, part; 1961 c 237 § 1, part; 1961 c 66 § 1, part; 1955 c 68 § 2, part. Formerly RCW 28A.58.105, 28.58.100(10) and (12).]

Chapter 28A.325

ASSOCIATED STUDENT BODIES

Sections

28A.325.010	Fees for optional noncredit extracurricular events—Disposition.
28A.325.020	Associated student bodies—Powers and responsibilities affecting.
28A.325.030	Associated student body program fund—Created—Source of funds—Expenditures—Budgeting—Care of other moneys received by students for private purposes.

28A.325.010 Fees for optional noncredit extracurricular events—Disposition. The board of directors of any common school district may establish and collect a fee from students and nonstudents as a condition to their attendance at any optional noncredit extracurricular event of the district

which is of a cultural, social, recreational, or athletic nature: PROVIDED, That in so establishing such fee or fees, the district shall adopt regulations for waiving and reducing such fees in the cases of those students whose families, by reason of their low income, would have difficulty in paying the entire amount of such fees and may likewise waive or reduce such fees for nonstudents of the age of sixty-five or over who, by reason of their low income, would have difficulty in paying the entire amount of such fees. An optional comprehensive fee may be established and collected for any combination or all of such events or, in the alternative, a fee may be established and collected as a condition to attendance at any single event. Fees collected pursuant to this section shall be deposited in the associated student body program fund of the school district, and may be expended to defray the costs of optional noncredit extracurricular events of such a cultural, social, recreational, or athletic nature, or to otherwise support the activities and programs of associated student bodies. [1977 ex.s. c 170 § 1; 1975 1st ex.s. c 284 § 1. Formerly RCW 28A.58.113.]

Severability—1975 1st ex.s. c 284: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of its provisions to other persons or circumstances is not affected." [1975 1st ex.s. c 284 § 4.]

28A.325.020 Associated student bodies—Powers and responsibilities affecting. As used in this section, an "associated student body" means the formal organization of the students of a school formed with the approval of and regulation by the board of directors of the school district in conformity to the rules and regulations promulgated by the superintendent of public instruction: PROVIDED, That the board of directors of a school district may act or delegate the authority to an employee of the district to act as the associated student body for any school plant facility within the district containing no grade higher than the sixth grade.

The superintendent of public instruction, after consultation with appropriate school organizations and students, shall promulgate rules and regulations to designate the powers and responsibilities of the boards of directors of the school districts of the state of Washington in developing efficient administration, management, and control of moneys, records, and reports of the associated student bodies organized in the public schools of the state. [1984 c 98 § 1; 1975 1st ex.s. c 284 § 3; 1973 c 52 § 1. Formerly RCW 28A.58.115.]

Severability—1975 1st ex.s. c 284: See note following RCW 28A.325.010.

28A.325.030 Associated student body program fund—Created—Source of funds—Expenditures—Budgeting—Care of other moneys received by students for private purposes. There is hereby created a fund on deposit with each county treasurer for each school district of the county having an associated student body as defined in RCW 28A.325.020. Such fund shall be known as the associated student body program fund. Rules and regulations promulgated by the superintendent of public instruction under RCW 28A.325.020 shall require separate accounting for each associated student body's transactions in the school district's associated student body program fund.

All moneys generated through the programs and activities of any associated student body shall be deposited

in the associated student body program fund. Such funds may be invested for the sole benefit of the associated student body program fund in items enumerated in RCW 28A.320.320 and the county treasurer may assess a fee as provided therein. Disbursements from such fund shall be under the control and supervision, and with the approval, of the board of directors of the school district, and shall be by warrant as provided in chapter 28A.350 RCW: PROVIDED, That in no case shall such warrants be issued in an amount greater than the funds on deposit with the county treasurer in the associated student body program fund. To facilitate the payment of obligations, an imprest bank account or accounts may be created and replenished from the associated student body program fund.

The associated student body program fund shall be budgeted by the associated student body, subject to approval by the board of directors of the school district. All disbursements from the associated student body program fund or any imprest bank account established thereunder shall have the prior approval of the appropriate governing body representing the associated student body. Notwithstanding the provisions of RCW 43.09.210, it shall not be mandatory that expenditures from the district's general fund in support of associated student body programs and activities be reimbursed by payments from the associated student body program fund.

Nothing in this section shall prevent those portions of student-generated moneys in the associated student body program fund, budgeted or otherwise, which constitute bona fide voluntary donations and are identified as donations at the time of collection from being used for such scholarship, student exchange and charitable purposes as the appropriate governing body representing the associated student body shall determine, and for such purposes, said moneys shall not be deemed public moneys under section 7, Article VIII, of the state Constitution.

Nonassociated student body program fund moneys generated and received by students for private purposes, including but not limited to use for scholarship and/or charitable purposes, may, in the discretion of the board of directors of any school district, be held in trust in one or more separate accounts within an associated student body program fund and be disbursed for such purposes: PROVIDED, That the school district shall either withhold an amount from such moneys as will pay the district for its cost in providing the service or otherwise be compensated for its cost for such service. [1990 c 33 § 340; 1984 c 98 § 2; 1982 c 231 § 1; 1977 ex.s. c 160 § 1; 1975 1st ex.s. c 284 § 2. Formerly RCW 28A.58.120.]

Severability—1982 c 231: "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." [1982 c 231 § 2.]

Severability—1975 1st ex.s. c 284: See note following RCW 28A.325.010.

Establishment of associated student body fund: RCW 28A.320.330.

Chapter 28A.330
PROVISIONS APPLICABLE TO SCHOOL
DISTRICTS

Sections

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PROVISIONS APPLICABLE ONLY TO FIRST CLASS
DISTRICTS

28A.330.010 Board president, vice president or president pro tempore—Secretary. At the first meeting of the members of the board they shall elect a president and vice president from among their number who shall serve for a term of one year or until their successors are elected. In the event of the temporary absence or disability of both the president and vice president, the board of directors may elect a president pro tempore who shall discharge all the duties of president during such temporary absence or disability.

The superintendent of such school district shall act as secretary to the board in accordance with the provisions of RCW 28A.400.030. [1990 c 33 § 341; 1969 ex.s. c 223 § 28A.59.030. Prior: 1953 c 111 § 6; prior: 1909 c 97 p 290 § 3, part; RRS § 4792, part. Formerly RCW 28A.59.030, 28.62.030.]

28A.330.020 Certain board elections, manner and vote required—Selection of personnel, manner. The election of the officers of the board of directors or to fill any vacancy as provided in RCW 28A.315.530, and the selection of the school district superintendent shall be by oral call of the roll of all the members, and no person shall be declared elected or selected unless he or she receives a majority vote of all the members of the board. Selection of other certificated and noncertificated personnel shall be made in such manner as the board shall determine. [1990 c 33 § 342; 1969 ex.s. c 223 § 28A.59.040. Prior: 1909 c 97 p 290 § 4; RRS § 4793. Formerly RCW 28A.59.040, 28.62.040.]

28A.330.030 Duties of president. It shall be the duty of the president to preside at all meetings of the board, and to perform such other duties as the board may prescribe. [1969 ex.s. c 223 § 28A.59.050. Prior: 1909 c 97 p 290 § 5; RRS § 4794. Formerly RCW 28A.59.050, 28.62.050.]

28A.330.040 Duties of vice president. It shall be the duty of the vice president to perform all the duties of president in case of the president's absence or disability. [1990 c 33 § 343; 1969 ex.s. c 223 § 28A.59.060. Prior: 1909 c 97 p 291 § 6; RRS § 4795. Formerly RCW 28A.59.060, 28.62.060.]

28A.330.050 Duties of superintendent as secretary of the board. In addition to the duties as prescribed in RCW 28A.400.030, the school district superintendent, as secretary of the board, may be authorized by the board to act as business manager, purchasing agent, and/or superintendent of buildings and janitors, and charged with the special care of school buildings and other property of the district, and he or she shall perform other duties as the board may direct. [1990 c 33 § 344; 1969 ex.s. c 223 § 28A.59.070. Prior: 1919 c 90 § 8; 1909 c 97 p 291 § 7; RRS § 4796. Formerly RCW 28A.59.070, 28.62.070.]

28A.330.060 Superintendent's bond and oath. Before entering upon the discharge of the superintendent's duties, the superintendent as secretary of the board shall give bond in such sum as the board of directors may fix from time to time, but for not less than five thousand dollars, with good and sufficient sureties, and shall take and subscribe an oath or affirmation, before a proper officer that he or she will support the Constitution of the United States and of the state of Washington and faithfully perform the duties of the office, a copy of which oath or affirmation shall be filed with the educational service district superintendent. [1990 c 33 § 345; 1975 1st ex.s. c 275 § 117; 1971 c 48 § 33; 1969 ex.s. c 223 § 28A.59.080. Prior: 1909 c 97 p 291 § 8; RRS § 4797. Formerly RCW 28A.59.080, 28.62.080.]

Severability—1971 c 48: See note following RCW 28A.305.040.

28A.330.070 Office of board—Records available for public inspection. The board of directors shall maintain an office where all records, vouchers and other important papers belonging to the board may be preserved. Such records, vouchers, and other important papers at all reasonable times shall be available for public inspection. The regular meetings shall be held within the district boundaries. [1989 c 232 § 1; 1969 ex.s. c 223 § 28A.59.100. Prior: 1909 c 97 p 291 § 10; RRS § 4799; prior: 1897 c 118 § 87; 1890 p 389 § 14. Formerly RCW 28A.59.100, 28.62.100.]

28A.330.080 Payment of claims—Signing of warrants. Moneys of such school districts shall be paid out only upon orders for warrants signed by the president, or a majority of the board of directors and countersigned by the secretary: PROVIDED, That when, in the judgment of the board of directors, the orders for warrants issued by the district monthly shall have reached such numbers that the signing of each warrant by the president personally imposes

too great a task on the president, the board of directors, after auditing all payrolls and bills as provided by RCW 28A.330.090, may authorize the issuing of one general certificate to the county treasurer, to be signed by the president, authorizing said treasurer to pay all the warrants specified by date, number, name and amount, and the funds on which said warrants shall be drawn; thereupon the secretary of said board shall be authorized to draw and sign said orders for warrants. [1990 c 33 § 346; 1969 ex.s. c 223 § 28A.59.110. Prior: 1909 c 97 p 292 § 11; RRS § 4800. Formerly RCW 28A.59.110, 28.62.110.]

28A.330.090 Auditing committee and expenditures.

All accounts shall be audited by a committee of board members chosen in such manner as the board so determines to be styled the "auditing committee," and, except as otherwise provided by law, no expenditure greater than three hundred dollars shall be voted by the board except in accordance with a written contract, nor shall any money or appropriation be paid out of the school fund except on a recorded affirmative vote of a majority of all members of the board: PROVIDED, That nothing herein shall be construed to prevent the board from making any repairs or improvements to the property of the district through their shop and repair department as otherwise provided in RCW 28A.335.190. [1990 c 33 § 347; 1983 c 56 § 9; 1975 1st ex.s. c 275 § 118; 1971 c 48 § 34; 1969 ex.s. c 223 § 28A.59.150. Prior: 1909 c 97 p 292 § 14; RRS § 4803. Formerly RCW 28A.59.150, 28.62.150, 28.62.160.]

Severability—1983 c 56: See note following RCW 28A.195.010.

Severability—1971 c 48: See note following RCW 28A.305.040.

28A.330.100 Additional powers of board. Every board of directors of a school district of the first class, in addition to the general powers for directors enumerated in this title, shall have the power:

(1) To employ for a term of not exceeding three years a superintendent of schools of the district, and for cause to dismiss him or her; and to fix his or her duties and compensation.

(2) To employ, and for cause to dismiss one or more assistant superintendents and to define their duties and fix their compensation.

(3) To employ a business manager, attorneys, architects, inspectors of construction, superintendents of buildings and a superintendent of supplies, all of whom shall serve at the board's pleasure, and to prescribe their duties and fix their compensation.

(4) To employ, and for cause to dismiss, supervisors of instruction and to define their duties and fix their compensation.

(5) To prescribe a course of study and a program of exercises which shall be consistent with the course of study prepared by the state board of education for the use of the common schools of this state.

(6) To, in addition to the minimum requirements imposed by this title establish and maintain such grades and departments, including night, high, kindergarten, vocational training and, except as otherwise provided by law, industrial schools, and schools and departments for the education and training of any class or classes of handicapped youth, as in

the judgment of the board, best shall promote the interests of education in the district.

(7) To determine the length of time over and above one hundred eighty days that school shall be maintained: PROVIDED, That for purposes of apportionment no district shall be credited with more than one hundred and eighty-three days' attendance in any school year; and to fix the time for annual opening and closing of schools and for the daily dismissal of pupils before the regular time for closing schools.

(8) To maintain a shop and repair department, and to employ, and for cause to dismiss, a foreman and the necessary help for the maintenance and conduct thereof.

(9) To provide free textbooks and supplies for all children attending school.

(10) To require of the officers or employees of the district to give a bond for the honest performance of their duties in such penal sum as may be fixed by the board with good and sufficient surety, and to cause the premium for all bonds required of all such officers or employees to be paid by the district: PROVIDED, That the board may, by written policy, allow that such bonds may include a deductible proviso not to exceed two percent of the officer's or employee's annual salary.

(11) To prohibit all secret fraternities and sororities among the students in any of the schools of the said districts.

(12) To appoint a practicing physician, resident of the school district, who shall be known as the school district medical inspector, and whose duty it shall be to decide for the board of directors all questions of sanitation and health affecting the safety and welfare of the public schools of the district who shall serve at the board's pleasure; the school district medical inspector or authorized deputies shall make monthly inspections of each school in the district and report the condition of the same to the board of education and board of health: PROVIDED, That children shall not be required to submit to vaccination against the will of their parents or guardian. [1991 c 116 § 17; 1990 c 33 § 348; 1983 c 2 § 7. Prior: 1982 c 191 § 11; 1982 c 158 § 6; 1969 ex.s. c 223 § 28A.59.180; prior: 1919 c 90 § 9; 1909 c 97 p 293 § 16; RRS § 4805. Formerly RCW 28A.59.180, 28.62.180, 28.31.070.]

Severability—1983 c 2: See note following RCW 18.71.030.

Effective date—Severability—1982 c 191: See notes following RCW 28A.315.270.

Severability—1982 c 158: See note following RCW 28A.150.220.

28A.330.110 Insurance reserve—Funds. School districts of the first class, when in the judgment of the board of directors it be deemed expedient, shall have power to create and maintain an insurance reserve for said districts, to be used to meet losses specified by the board of directors of the school districts.

Funds required for maintenance of such an insurance reserve shall be budgeted and allowed as are other moneys required for the support of the school district. [1983 c 59 § 16; 1982 c 191 § 12; 1969 ex.s. c 223 § 28A.59.185. Prior: (i) 1911 c 79 § 1; RRS § 4707. Formerly RCW 28.59.010. (ii) 1911 c 79 § 2; RRS § 4708. Formerly RCW 28.59.020. (iii) 1941 c 187 § 1; 1911 c 79 § 3; Rem. Supp. 1941 § 4709. Formerly RCW 28A.59.185, 28.59.030.]

Application—Effective date—Severability—1983 c 59: See notes following RCW 28A.505.010.

Effective date—Severability—1982 c 191: See notes following RCW 28A.315.270.

PROVISIONS APPLICABLE ONLY TO SECOND CLASS DISTRICTS

28A.330.200 Organization of board—Assumption of superintendent's duties by board member, when. The term of office of directors of districts of the second class shall begin, and the board shall organize, as provided in RCW 28A.315.500. At the first meeting of the members of the board they shall elect a chair from among their number who shall serve for a term of one year or until his or her successor is elected. The school district superintendent as defined in RCW 28A.150.080 shall serve as secretary to the board. Whenever a district shall be without the services of such a superintendent and the business of the district necessitates action thereby, the board shall appoint any member thereof to carry out the superintendent's powers and duties for the district. [1990 c 33 § 349; 1988 c 187 § 2; 1975 c 43 § 14; 1969 ex.s. c 223 § 28A.60.010. Prior: 1953 c 111 § 1; prior: (i) 1909 c 97 p 298 § 5; RRS § 4815. (ii) 1909 c 97 p 301 § 5; RRS § 4827. Formerly RCW 28A.60.010, 28.63.010.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.315.230.

28A.330.210 Notice to ESD superintendent of change of chairman or superintendent. Every school district superintendent in districts of the second class shall within ten days after any change in the office of chair or superintendent, notify the educational service district superintendent of such change. [1990 c 33 § 350; 1975-'76 2nd ex.s. c 15 § 11. Prior: 1975 1st ex.s. c 275 § 119; 1975 c 43 § 15; 1971 c 48 § 35; 1969 ex.s. c 223 § 28A.60.070; prior: 1909 c 97 p 304 § 1; RRS § 4841; prior: 1903 c 104 § 19. Formerly RCW 28A.60.070, 28.63.070.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.315.230.

Severability—1971 c 48: See note following RCW 28A.305.040.

28A.330.220 Attorney may be employed. The board of directors of every second class district in addition to their other powers are authorized to employ an attorney and to prescribe the attorney's duties and fix the attorney's compensation. [1990 c 33 § 351; 1975 c 43 § 19; 1971 c 8 § 5. Prior: 1967 c 220 § 1. Formerly RCW 28A.60.310, 28.63.340.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.315.230.

Severability—1971 c 8: See note following RCW 28A.320.310.

28A.330.230 Drawing and issuance of warrants. Second class school districts, subject to the approval of the superintendent of public instruction, may draw and issue warrants for the payment of moneys upon approval of a majority of the board of directors, such warrants to be signed by the chair of the board and countersigned by the secretary: PROVIDED, That when, in the judgment of the board of directors, the orders for warrants issued by the district

monthly shall have reached such numbers that the signing of each warrant by the chair of the board personally imposes too great a task on the chair, the board of directors, after auditing all payrolls and bills, may authorize the issuing of one general certificate to the county treasurer, to be signed by the chair of the board, authorizing said treasurer to pay all the warrants specified by date, number, name and amount, and the funds on which said warrants shall be drawn; thereupon the secretary of said board shall be authorized to draw and sign said orders for warrants. [1990 c 33 § 352; 1983 c 56 § 10; 1975 c 43 § 21; 1973 c 111 § 1. Formerly RCW 28A.60.328.]

Severability—1983 c 56: See note following RCW 28A.195.010.

Effective date—Severability—1975 c 43: See notes following RCW 28A.315.230.

Severability—1973 c 111: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 c 111 § 6.]

28A.330.240 Employment contracts. The board of directors of each second class school district shall adopt a written policy governing procedures for the letting of any employment contract authorized under RCW 42.23.030. This policy shall include provisions to ensure fairness and the appearance of fairness in all matters pertaining to employment contracts so authorized. [1989 c 263 § 2. Formerly RCW 28A.60.360.]

Severability—1989 c 263: See note following RCW 42.23.030.

Chapter 28A.335

SCHOOL DISTRICTS' PROPERTY ACQUISITION, OPERATION, CLOSURE, AND DISPOSAL

Sections

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Chapter not to apply to certain materials printed in school districts: RCW 82.04.600.

Contracts with community service organizations for public improvements: RCW 35.21.278.

Determination if lands purchased or leased by school districts are used as school sites—Reversion: RCW 79.01.780.

Dissolution of inactive port districts, assets to school districts: RCW 53.47.040.

Interlocal cooperation act: Chapter 39.34 RCW.

School districts, purchase of leased lands with improvements: RCW 79.01.770 through 79.01.778.

28A.335.010 School buildings, maintenance, furnishing and insuring. Every board of directors, unless otherwise specifically provided by law, shall:

(1) Cause all school buildings to be properly heated, lighted and ventilated and maintained in a clean and sanitary condition; and

(2) Maintain and repair, furnish and insure such school buildings. [1969 ex.s. c 223 § 28A.58.102. Prior: 1969 c 53 § 1, part; 1967 ex.s. c 29 § 1, part; 1967 c 12 § 1, part; 1965 ex.s. c 49 § 1, part; 1963 c 104 § 1, part; 1963 c 5 § 1, part; 1961 c 305 § 1, part; 1961 c 237 § 1, part; 1961 c 66 § 1, part; 1955 c 68 § 2, part. Formerly RCW 28A.58.102, 28.58.100(3), part, and (4) part.]

Energy audits and energy capital improvements: RCW 28A.320.330.

28A.335.020 School closures—Policy of citizen involvement required—Summary of effects—Hearings—Notice. Before any school closure, a school district board of directors shall adopt a policy regarding school closures which provides for citizen involvement before the school district board of directors considers the closure of any school for instructional purposes. The policy adopted shall include provisions for the development of a written summary containing an analysis as to the effects of the proposed school closure. The policy shall also include a requirement

that during the ninety days before a school district's final decision upon any school closure, the school board of directors shall conduct hearings to receive testimony from the public on any issues related to the closure of any school for instructional purposes. The policy shall require separate hearings for each school which is proposed to be closed.

The policy adopted shall provide for reasonable notice to the residents affected by the proposed school closure. At a minimum, the notice of any hearing pertaining to a proposed school closure shall contain the date, time, place, and purpose of the hearing. Notice of each hearing shall be published once each week for two consecutive weeks in a newspaper of general circulation in the area where the school, subject to closure, is located. The last notice of hearing shall be published not later than seven days immediately before the final hearing. [1983 c 109 § 2. Formerly RCW 28A.58.031.]

Application of RCW 43.21C.030(2)(c) to school closures: RCW 43.21C.038.

28A.335.030 Emergency school closures exempt from RCW 28A.335.020. A school district may close a school for emergency reasons, as set forth in RCW 28A.150.290(2) (a) and (b), without complying with the requirements of RCW 28A.335.020. [1990 c 33 § 353; 1983 c 109 § 3. Formerly RCW 28A.58.032.]

28A.335.040 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 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 except in such cases where, due to proximity to an international airport, land use has been so permanently altered as to preclude the possible use of the property for a school housing students and the school property has been heavily impacted by surrounding land uses so that a school housing students would no longer be appropriate in that area.

(2) Authorization to rent, lease or permit the occasional use of surplus school property under this section, RCW 28A.335.050 and 28A.335.090 is conditioned on the establishment by each school district board of directors of a policy governing the use of surplus school property.

(3) The board of directors of any school district desiring to rent or lease any surplus real property owned by the school district shall publish a written notice in a newspaper of general circulation in the school district for rentals or leases totalling ten thousand dollars or more in value. School districts shall not rent or lease the property for at least forty-five days following the publication of the newspaper notice.

(4) Private schools shall have the same rights as any other person or entity to submit bids for the rental or lease of surplus real property and to have such bids considered along with all other bids: PROVIDED, That the school board may establish reasonable conditions for the use of such real property to assure the safe and proper operation of the property in a manner consistent with board policies. [1991 c 116 § 12. Prior: 1990 c 96 § 1; 1990 c 33 § 354; 1981 c 306 § 2; 1980 c 115 § 2. Formerly RCW 28A.58.033.]

Severability—1981 c 306: See note following RCW 28A.335.180.

Severability—1980 c 115: See note following RCW 28A.335.090.

28A.335.050 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.335.040 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.335.040 shall be conditioned on the payment by all users, lessees or tenants, assessed on a basis that is nondiscriminatory 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.335.040 and 28A.335.090 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. [1990 c 33 § 355; 1980 c 115 § 3. Formerly RCW 28A.58.034.]

Severability—1980 c 115: See note following RCW 28A.335.090.

28A.335.060 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 as follows:

(1) Moneys derived from real property shall be deposited into the district's debt service fund and/or capital projects 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;

(2) Moneys derived from pupil transportation vehicles shall be deposited in the district's transportation vehicle fund;

(3) Moneys derived from other personal property shall be deposited in the district's general fund. [1989 c 86 § 2; 1983 c 59 § 15; 1982 c 191 § 4; 1981 c 250 § 4; 1980 c 115 § 4. Formerly RCW 28A.58.035.]

Application—Effective date—Severability—1983 c 59: See notes following RCW 28A.505.010.

Effective date—Severability—1982 c 191: See notes following RCW 28A.315.270.

Effective date—1981 c 250: "The effective date of this amendatory act shall be September 1, 1981." [1981 c 250 § 5.]

Severability—1980 c 115: See note following RCW 28A.335.090.

School funds enumerated—Deposits—Uses: RCW 28A.320.330.

28A.335.070 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.335.040, 28A.335.050, and 28A.335.090. [1990 c 33 § 356; 1980 c 115 § 5. Formerly RCW 28A.58.036.]

Severability—1980 c 115: See note following RCW 28A.335.090.

28A.335.080 Surplus school property, rental, lease or use of—Community use not impaired. Nothing in RCW 28A.335.040 through 28A.335.070 shall preclude school district boards of directors from making available school property for community use in accordance with the provisions of RCW 28A.335.150, 28A.320.510, or 28A.335.250, and school district administrative policy governing such use. [1990 c 33 § 357; 1980 c 115 § 6. Formerly RCW 28A.58.037.]

Severability—1980 c 115: See note following RCW 28A.335.090.

28A.335.090 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.335.120, 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.335.120, 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. [1990 c 33 § 358; 1981 c 306 § 3; 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 § 4782, part; prior: 1897 c 118 § 44, part; 1891 c 127 § 11, part; 1890 p 366 § 30, part. Formerly RCW 28A.58.040, 28.58.040.]

Severability—1981 c 306: See note following RCW 28A.335.180.

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.]

28A.335.100 School district associations, right to mortgage or convey money security interest in association property—Limitations. Any association established by

school districts pursuant to the interlocal cooperation act, chapter 39.34 RCW for the purpose of jointly and cooperatively purchasing school supplies, materials and equipment, if otherwise authorized for school district purposes to purchase personal or real property, is hereby authorized, subject to rules and regulations of the state board of education, to mortgage, or convey a purchase money security interest in real or personal property of such association of every kind, character or description whatsoever, or any interest in such personal or real property: **PROVIDED**, That any such association shall be prohibited from causing any creditor of the association to acquire any rights against the property, properties or assets of any of its constituent school districts and any creditor of such association shall be entitled to look for payment of any obligation incurred by such association solely to the assets and properties of such association. [1975-'76 2nd ex.s. c 23 § 1. Formerly RCW 28A.58.0401.]

28A.335.110 Real property—Annexation to city or town. In addition to other powers and duties as provided by law, every board of directors, if seeking to have school property annexed to a city or town and if such school property constitutes the whole of such property in the annexation petition, shall be allowed to petition therefor under RCW 35.13.125 and 35.13.130. [1971 c 69 § 3. Formerly RCW 28A.58.044.]

Severability—1971 c 69: See note following RCW 35.13.125.

28A.335.120 Real property—Sale—Notice of and hearing on—Appraisal required—Broker or real estate appraiser services—Real estate sales contracts, limitation.

(1) The board of directors of any school district of this state may:

(a) Sell for cash, at public or private sale, and convey by deed all interest of the district in or to any of the real property of the district which is no longer required for school purposes; and

(b) Purchase real property for the purpose of locating thereon and affixing thereto any house or houses and appurtenant buildings removed from school sites owned by the district and sell for cash, at public or private sale, and convey by deed all interest of the district in or to such acquired and improved real property.

(2) When the board of directors of any school district proposes a sale of school district real property pursuant to this section and the value of the property exceeds seventy thousand dollars, the board shall publish a notice of its intention to sell the property. The notice shall be published at least once each week during two consecutive weeks in a legal newspaper with a general circulation in the area in which the school district is located. The notice shall describe the property to be sold and designate the place where and the day and hour when a hearing will be held. The board shall hold a public hearing upon the proposal to dispose of the school district property at the place and the day and hour fixed in the notice and admit evidence offered for and against the propriety and advisability of the proposed sale.

(3) The board of directors of any school district desiring to sell surplus real property shall publish a notice in a

newspaper of general circulation in the school district. School districts shall not sell the property for at least forty-five days following the publication of the newspaper notice.

(4) Private schools shall have the same rights as any other person or entity to submit bids for the purchase of surplus real property and to have such bids considered along with all other bids.

(5) Any sale of school district real property authorized pursuant to this section shall be preceded by a market value appraisal by three licensed real estate brokers or professionally designated real estate appraisers as defined in RCW 74.46.020 selected by the board of directors and no sale shall take place if the sale price would be less than ninety percent of the average of the three appraisals made by the brokers or professionally designated real estate appraisers: **PROVIDED**, That if the property has been on the market for one year or more the property may be reappraised and sold for not less than seventy-five percent of the average reappraised value with the unanimous consent of the board.

(6) If in the judgment of the board of directors of any district the sale of real property of the district not needed for school purposes would be facilitated and greater value realized through use of the services of licensed real estate brokers, a contract for such services may be negotiated and concluded: **PROVIDED**, That the use of a licensed real estate broker will not eliminate the obligation of the board of directors to provide the notice described in this section: **PROVIDED FURTHER**, That the fee or commissions charged for any broker services shall not exceed seven percent of the resulting sale value for a single parcel: **PROVIDED FURTHER**, That any licensed real estate broker or professionally designated real estate appraisers as defined in RCW 74.46.020 selected by the board to appraise the market value of a parcel of property to be sold may not be a party to any contract with the school district to sell such parcel of property for a period of three years after the appraisal.

(7) If in the judgment of the board of directors of any district the sale of real property of the district not needed for school purposes would be facilitated and greater value realized through sale on contract terms, a real estate sales contract may be executed between the district and buyer: **PROVIDED**, That the terms and conditions of any such sales contract must comply with rules and regulations of the state board of education, herein authorized, governing school district real property contract sales. [1991 c 116 § 13; 1984 c 103 § 1; 1981 c 306 § 4; 1979 ex.s. c 16 § 1; 1975 1st ex.s. c 243 § 1; 1969 ex.s. c 223 § 28A.58.045. Prior: 1963 c 67 § 1; 1953 c 225 § 1. Formerly RCW 28A.58.045, 28.58.045.]

Severability—1981 c 306: See note following RCW 28A.335.180.

28A.335.130 Real property—Sale—Use of proceeds.

The proceeds from any sale of school district real property by a board of directors shall be deposited to the debt service fund and/or the capital projects fund, except for amounts required to be expended for the costs associated with the sale of such property, which moneys may be deposited into the fund from which the expenditure was incurred. [1983 c 59 § 14; 1981 c 250 § 3; 1975-'76 2nd ex.s. c 80 § 1; 1975 1st ex.s. c 243 § 2. Formerly RCW 28A.58.0461.]

Application—Effective date—Severability—1983 c 59: See notes following RCW 28A.505.010.

Effective date—1981 c 250: See note following RCW 28A.335.060.
School funds enumerated—Deposits—Uses: RCW 28A.320.330.

28A.335.140 Expenditure of funds on county, city building authorized—Conditions. Notwithstanding any other provision of law, every school district board of directors may expend local funds held for capital projects or improvements for improvements on any building owned by a city or county in which the district or any part thereof is located if an agreement is entered into with such city or county whereby the school district receives a beneficial use of such building commensurate to the amount of funds expended thereon by the district. [1971 ex.s. c 238 § 3. Formerly RCW 28A.58.047.]

28A.335.150 Permitting use and rental of playgrounds, athletic fields or athletic facilities. Boards of directors of school districts are hereby authorized to permit the use of, and to rent school playgrounds, athletic fields, or athletic facilities, by, or to, any person or corporation for any athletic contests or athletic purposes.

Permission to use and/or rent said school playgrounds, athletic fields, or athletic facilities shall be for such compensation and under such terms as regulations of the board of directors adopted from time to time so provide. [1969 ex.s. c 223 § 28A.58.048. Prior: (i) 1935 c 99 § 1; Rem. Supp. § 4776-1. Formerly RCW 28.58.048. (ii) 1935 c 99 § 2; RRS § 4776-2. Formerly RCW 28A.58.048, 28.58.050.]

28A.335.160 Joint educational facilities, services or programs—Rules and regulations—Apportionment of attendance credit. Any school district may cooperate with one or more school districts in the following:

(1) The joint financing, planning, construction, equipping and operating of any educational facility otherwise authorized by law: **PROVIDED**, That any cooperative financing plan involving the construction of school plant facilities must be approved by the state board of education pursuant to such rules as may now or hereafter be promulgated relating to state approval of school construction.

(2) The joint maintenance and operation of educational programs or services (a) either as a part of the operation of a joint facility or otherwise, (b) either on a full or part time attendance basis, and (c) either on a regular one hundred eighty day school year or extended school year: **PROVIDED**, That any such joint program or service must be operated pursuant to a written agreement approved by the superintendent of public instruction pursuant to rules and regulations promulgated therefor. In establishing rules and regulations the state superintendent shall consider, among such other factors as the superintendent deems appropriate, the economic feasibility of said services and programs, the educational and administrative scope of said agreement and the need for said programs or services.

Notwithstanding any other provision of the law, the state superintendent of public instruction shall establish rules and regulations for the apportionment of attendance credits for such students as are enrolled in a jointly operated facility or program, including apportionment for approved part time and

extended school year attendance. [1990 c 33 § 359; 1969 c 130 § 12. Formerly RCW 28A.58.075.]

Conditional sales contracts for acquisition of property or property rights: RCW 28A.335.200.

Education of handicapped children: RCW 28A.155.040.

28A.335.170 Contracts to provide pupil transportation services, lease building space and portable buildings, and lease or have maintained security systems, computers and other equipment. The board of directors of any school district may enter into contracts for their respective districts for periods not exceeding five years in duration with public and private persons, organizations, and entities for the following purposes:

- (1) To rent or lease building space, portable buildings, security systems, computers and other equipment;
- (2) To have maintained and repaired security systems, computers and other equipment; and
- (3) To provide pupil transportation services.

No school district may enter into a contract for pupil transportation unless it has notified the superintendent of public instruction that, in the best judgment of the district, the cost of contracting will not exceed the projected cost of operating its own pupil transportation.

The budget of each school district shall identify that portion of each contractual liability incurred pursuant to this section extending beyond the fiscal year by amount, duration, and nature of the contracted service and/or item in accordance with rules and regulations of the superintendent of public instruction adopted pursuant to RCW 28A.505.140 and 28A.310.330.

The provisions of this section shall not have any effect on the length of contracts for school district employees specified by RCW 28A.400.300 and 28A.405.210. [1990 c 33 § 360; 1987 c 141 § 1; 1985 c 7 § 93; 1982 c 191 § 3; 1977 ex.s. c 210 § 1. Formerly RCW 28A.58.131.]

Severability—1987 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 provision to other persons or circumstances is not affected." [1987 c 141 § 3.]

Effective date—Severability—1982 c 191: See notes following RCW 28A.315.270.

Severability—1977 ex.s. c 210: "If any provision of this 1977 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 210 § 3.]

28A.335.180 Surplus texts and other educational aids, notice of availability—Student priority as to texts. Notwithstanding any other provision of law, school districts, educational service districts, or any other state or local governmental agency concerned with education, when declaring texts and other books, equipment, materials or relocatable facilities as surplus, shall, prior to other disposal thereof, serve notice in writing in a newspaper of general circulation in the school district and to any public school district or private school in Washington state annually requesting such a notice, that the same is available for sale, rent, or lease to public school districts or private schools, at depreciated cost or fair market value, whichever is greater: **PROVIDED**, That students wishing to purchase texts pursuant to RCW 28A.320.230(2) shall have priority as to

such texts. Such districts or agencies shall not otherwise sell, rent or lease such surplus property to any person, firm, organization, or nongovernmental agency for at least thirty days following publication of notice in a newspaper of general circulation in the school district. [1991 c 116 § 1; 1990 c 33 § 361; 1981 c 306 § 1; 1977 ex.s. c 303 § 1. Formerly RCW 28A.02.110.]

Severability—1981 c 306: "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." [1981 c 306 § 5.]

Disposal of obsolete or surplus reading materials by school districts and libraries: RCW 39.33.070.

28A.335.190 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 twenty 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 seventy-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 seventy-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 seventy-five hundred dollars up to twenty 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 twenty 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 seventy-five hundred dollars, shall be on a competitive bid process. All such projects estimated to be less than twenty 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 twenty 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 but the board may by resolution reject any and all bids and make further calls for bids in the same manner as the original call. On any work or purchase the board shall provide bidding information to any qualified bidder or the bidder's 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. [1990 c 33 § 362; 1985 c 324 § 1; 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 28A.58.135, 28.58.135.]

28A.335.200 Conditional sales contracts for acquisition of property or property rights. Any school district may execute an executory conditional sales contract with any other municipal corporation, the state or any of its political subdivisions, the government of the United States or any private party for the purchase of any real or personal property, or property rights, in connection with the exercise of any powers or duties which they now or hereafter are authorized to exercise, if the entire amount of the purchase price specified in such contract does not result in a total indebtedness in excess of the limitation authorized by chapter 39.36 RCW, as now or hereafter amended, to be incurred without the assent of the voters: **PROVIDED**, That if such a proposed contract would result in a total indebtedness in excess of the limitation authorized by chapter 39.36 RCW, as now or hereafter amended, to be incurred without the assent of the voters, a proposition in regard to whether or not such a contract may be executed shall be submitted to the voters for approval or rejection in the same manner that bond issues for capital purposes are submitted to the voters: **PROVIDED FURTHER**, That any school district may jointly with another school district execute contracts authorized by

this section. [1970 ex.s. c 42 § 11; 1969 ex.s. c 223 § 28A.58.550. Prior: 1965 c 62 § 1. Formerly RCW 28A.58.550, 28.58.550.]

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

Transportation vehicle fund—Deposits in—Use—Rules for establishment and use: RCW 28A.160.130.

28A.335.210 Purchase of works of art—Procedure.

The state board of education and superintendent of public instruction shall allocate, as a nondeductible item, out of any moneys appropriated for state assistance to school districts for the original construction of any school plant facility the amount of one-half of one percent of the appropriation to be expended by the Washington state arts commission for the acquisition of works of art. The works of art may be placed in accordance with Article IX, sections 2 and 3 of the state Constitution on public lands, integral to or attached to a public building or structure, detached within or outside a public building or structure, part of a portable exhibition or collection, part of a temporary exhibition, or loaned or exhibited in other public facilities. The Washington state arts commission shall, in consultation with the superintendent of public instruction, determine the amount to be made available for the purchase of works of art under this section, and payments therefor shall be made in accordance with law. The designation of projects and sites, selection, contracting, purchase, commissioning, reviewing of design, execution and placement, acceptance, maintenance, and sale, exchange, or disposition of works of art shall be the responsibility of the Washington state arts commission in consultation with the superintendent of public instruction and representatives of school district boards of directors. However, the costs to carry out the Washington state arts commission's responsibility for maintenance shall not be funded from the moneys referred to under this section, RCW 43.17.200, 43.19.455, or 28B.10.025, but shall be contingent upon adequate appropriations being made for that purpose: **PROVIDED**, That the superintendent of public instruction and the school district board of directors of the districts where the sites are selected shall have the right to:

- (1) Waive its use of the one-half of one percent of the appropriation for the acquisition of works of art before the selection process by the Washington state arts commission;
- (2) Appoint a representative to the body established by the Washington state arts commission to be part of the selection process with full voting rights;
- (3) Reject the results of the selection process;
- (4) Reject the placement of a completed work or works of art on school district premises if such works are portable.

Rejection at any point before or after the selection process shall not cause the loss of or otherwise endanger state construction funds available to the local school district. Any works of art rejected under this section shall be applied to the provision of works of art under this chapter, at the discretion of the Washington state arts commission, notwithstanding any contract or agreement between the affected school district and the artist involved. In addition to the cost of the works of art the one-half of one percent of the appropriation as provided herein shall be used to provide for the administration by the Washington state arts commission and all costs for installation of the work of art. For the

purpose of this section building shall not include sheds, warehouses or other buildings of a temporary nature.

The executive director of the arts commission, the superintendent of public instruction and the Washington state school directors association shall appoint a study group to review the operations of the one-half of one percent for works of art under this section. [1983 c 204 § 7; 1982 c 191 § 2; 1974 ex.s. c 176 § 5. Formerly RCW 28A.58.055.]

Implementation—1983 c 204: "Implementation of section 7 of this 1983 act shall become effective upon approval by the arts commission, the superintendent of public instruction and the Washington state school directors association." [1983 c 204 § 10.] "Section 7 of this 1983 act," was the 1983 c 204 amendment to RCW 28A.58.055, now recodified as RCW 28A.335.210.

Severability—1983 c 204: See note following RCW 43.46.090.

Effective date—Severability—1982 c 191: See notes following RCW 28A.315.270.

Acquisition of works of art for public buildings and lands—Visual arts program established: RCW 43.46.090.

Allocation of moneys for acquisition of works of art—Expenditure by arts commission—Conditions: RCW 43.17.200.

Purchase of works of art—Interagency reimbursement for expenditure by visual arts program: RCW 43.17.205.

State art collection: RCW 43.46.095.

28A.335.220 Eminent domain. The board of directors of any school district may proceed to condemn and appropriate not more than fifteen acres of land for any elementary school purpose; not more than twenty-five acres for any junior high school purpose; not more than forty acres for any senior high school purpose; except as otherwise provided by law, not more than seventy-five acres for any vocational technical school purpose; and not more than fifteen acres for any other school district purpose. Such condemnation proceedings shall be in accordance with chapters 8.16 and 8.25 RCW and such other laws of this state providing for appropriating private property for public use by school districts. [1969 ex.s. c 223 § 28A.58.070. Prior: 1963 c 41 § 1; 1957 c 155 § 1; 1949 c 54 § 1; 1909 c 97 p 289 § 13; Rem. Supp. 1949 § 4788. Formerly RCW 28A.58.070, 28.58.070.]

28A.335.230 Vacant school plant facilities—Lease by contiguous district, when required—Eligibility for matching funds. School districts shall be required to lease for a reasonable fee vacant school plant facilities from a contiguous school district wherever possible.

No school district with unhoused students may be eligible for the state matching funds for the construction of school plant facilities if:

(1) The school district contiguous to the school district applying for the state matching percentage has vacant school plant facilities;

(2) The superintendent of public instruction and the state board of education have determined the vacant school plant facilities available in the contiguous district will fulfill the needs of the applicant district in housing unhoused students. In determining whether the contiguous district school plant facilities meet the needs of the applicant district, consideration shall be given, but not limited to the geographic location of the vacant facilities as they relate to the applicant district; and

(3) A lease of the vacant school plant facilities can be negotiated. [1987 c 112 § 1. Formerly RCW 28A.47.105.]
Surplus school property: RCW 28A.335.040 through 28A.335.080.

28A.335.240 Schoolhouses, teachers' cottages—Purchase of realty for district purposes. The board of directors of a second class school district shall build schoolhouses and teachers' cottages when directed by a vote of the district to do so. The board of directors of a second class school district may purchase real property for any school district purpose. [1969 ex.s. c 223 § 28A.60.181. Prior: 1963 c 61 § 1; 1959 c 169 § 1. Formerly RCW 28A.60.181, 28.63.181.]

Borrowing money, issuing bonds, for schoolhouse sites, playgrounds, erecting buildings and equipping same: RCW 28A.530.010.

Real property—Sale—Purchase to relocate and sell buildings: RCW 28A.335.120.

28A.335.250 School property used for public purposes. School boards in each district of the second class may provide for the free, comfortable and convenient use of the school property to promote and facilitate frequent meetings and association of the people in discussion, study, improvement, recreation and other community purposes, and may acquire, assemble and house material for the dissemination of information of use and interest to the farm, the home and the community, and facilities for experiment and study, especially in matters pertaining to the growing of crops, the improvement and handling of livestock, the marketing of farm products, the planning and construction of farm buildings, the subjects of household economies, home industries, good roads, and community vocations and industries; and may call meetings for the consideration and discussion of any such matters, employ a special supervisor, or leader, if need be, and provide suitable dwellings and accommodations for teachers, supervisors and necessary assistants. [1975 c 43 § 16; 1969 ex.s. c 223 § 28A.60.190. Prior: 1913 c 129 § 1; RRS § 4837. Formerly RCW 28A.60.190, 28.63.190.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.315.230.

28A.335.260 School property used for public purposes—Community buildings. Each school district of the second class, by itself or in combination with any other district or districts, shall have power, when in the judgment of the school board it shall be deemed expedient, to reconstruct, remodel, or build schoolhouses, and to erect, purchase, lease or otherwise acquire other improvements and real and personal property, and establish a communal assembly place and appurtenances, and supply the same with suitable and convenient furnishings and facilities for the uses mentioned in RCW 28A.335.250. [1990 c 33 § 363; 1975 c 43 § 17; 1969 ex.s. c 223 § 28A.60.200. Prior: 1913 c 129 § 2; RRS § 4838. Formerly RCW 28A.60.200, 28.63.200.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.315.230.

28A.335.270 School property used for public purposes—Special state commission to pass on plans.

Plans of any second class district or combination of districts for the carrying out of the powers granted by RCW 28A.335.250 through 28A.335.280 shall be submitted to and approved by a board of supervisors composed of members, as follows: The superintendent of public instruction; the head of the extension department of Washington State University; the head of the extension department of the University of Washington; and the educational service district superintendent; these to choose one member from such county in which the facilities are proposed to be located, and two members, from the district or districts concerned. [1990 c 33 § 364; 1975-'76 2nd ex.s. c 15 § 12. Prior: 1975 1st ex.s. c 275 § 121; 1975 c 43 § 18; 1973 1st ex.s. c 154 § 46; 1971 c 48 § 37; 1969 ex.s. c 223 § 28A.60.210; prior: 1913 c 129 § 3; RRS § 4839. Formerly RCW 28A.60.210, 28.63.210.]

Effective date—Severability—1975 c 43: See notes following RCW Sec 28A.315.230.

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

Severability—1971 c 48: See note following RCW 28A.305.040.

28A.335.280 School property used for public purposes—Limit on expenditures. No real or personal property or improvements shall be purchased, leased, exchanged, acquired or sold, nor any schoolhouses built, remodeled or removed, nor any indebtedness incurred or money expended for any of the purposes of RCW 28A.335.250 through 28A.335.280 except in the manner otherwise provided by law for the purchase, lease, exchange, acquisition and sale of school property, the building, remodeling and removing of schoolhouses and the incurring of indebtedness and expenditure of money for school purposes. [1990 c 33 § 365; 1969 ex.s. c 223 § 28A.60.220. Prior: 1913 c 129 § 4; RRS § 4840. Formerly RCW 28A.60.220, 28.63.220.]

28A.335.290 Housing for superintendent—Authorized—Limitation. Notwithstanding any other provision of law, any second class school district with an enrollment of three hundred students or less may provide housing for the superintendent of the school district, or any person acting in the capacity of superintendent, by such means and with such moneys as the school district shall determine: PROVIDED, That any second class school district presently providing such housing may continue to provide the same: PROVIDED FURTHER, That if such housing is exempt from real property taxation by virtue of school district ownership, the school district shall charge for such housing, rent at least equal to the amount of real property tax for which such housing would be liable were it not so owned. [1984 c 40 § 10; 1975 1st ex.s. c 41 § 1. Formerly RCW 28A.60.350.]

Severability—1984 c 40: See note following RCW 28A.195.050.

Classes of districts—Change of classification delay of authorized: RCW 28A.315.240. generally: RCW 28A.315.230.

28A.335.300 Playground matting. Every school board of directors shall consider the purchase of playground matting manufactured from shredded waste tires in undertak-

ing construction or maintenance of playgrounds. The department of general administration shall upon request assist in the development of product specifications and vendor identification. [1991 c 297 § 18.]

Captions not law—1991 c 297: See RCW 43.19A.900.

Chapter 28A.340

SMALL HIGH SCHOOL COOPERATIVE PROJECTS

Sections

28A.340.010	Increased curriculum programs and opportunities.
28A.340.020	Eligibility—Participation.
28A.340.030	Application—Review by the superintendent of public instruction.
28A.340.040	Adoption of salary schedules—Computation of fringe benefits.
28A.340.050	Report to the superintendent of public instruction—Report to the legislature.
28A.340.060	Rules.
28A.340.070	Allocation of state funds for technical assistance—Contracting with agencies for technical assistance.

28A.340.010 Increased curriculum programs and opportunities. Eligible school districts as defined under RCW 28A.340.020 are encouraged to establish cooperative projects with a primary purpose to increase curriculum programs and opportunities among the participating districts, by expanding the opportunity for students in the participating districts to take vocational and academic courses as may be generally more available in larger school districts, and to enhance student learning. [1990 c 33 § 366; 1988 c 268 § 2. Formerly RCW 28A.100.080.]

Findings—1988 c 268: "The legislature finds that partnerships among school districts can: Increase curriculum offerings for students, encourage creative educational programming and staffing, and result in the cost-effective delivery of educational programs. It is the intent of the legislature to establish a program to facilitate and encourage such partnerships among small school districts." [1988 c 268 § 1.]

Severability—1988 c 268: "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." [1988 c 268 § 12.]

28A.340.020 Eligibility—Participation. School districts eligible for funding as a small high school district pursuant to the state operating appropriations act shall be eligible to participate in a cooperative project: **PROVIDED**, That the superintendent of public instruction may adopt rules permitting second class school districts that are not eligible for funding as a small high school district in the state operating appropriations act to participate in a cooperative project.

Two or more school districts may participate in a cooperative project pursuant to RCW 28A.340.020 through 28A.340.070. [1990 c 33 § 367; 1988 c 268 § 3. Formerly RCW 28A.100.082.]

Findings—Severability—1988 c 268: See notes following RCW 28A.340.010.

28A.340.030 Application—Review by the superintendent of public instruction. (1) Eligible school districts desiring to form a cooperative project pursuant to RCW 28A.340.020 through 28A.340.070 shall submit to the

superintendent of public instruction an application for review as a cooperative project. The application shall include, but not be limited to, the following information:

(a) A description of the cooperative project, including the programs, services, and administrative activities that will be operated jointly;

(b) The improvements in curriculum offerings and educational opportunities expected to result from the establishment of the proposed cooperative project;

(c) A list of any statutory requirements or administrative rules which are considered financial disincentives to the establishment of cooperative projects and which would impede the operation of the proposed cooperative project; and the financial impact to the school districts and the state expected to result by the granting of a waiver from such statutory requirements or administrative rules;

(d) An assessment of community support for the proposed cooperative project, which assessment shall include each community affected by the proposed cooperative project; and

(e) A plan for evaluating the educational and cost-effectiveness of the proposed cooperative project, including curriculum offerings and staffing patterns.

(2) The superintendent of public instruction shall review the application before the applicant school districts may commence the proposed cooperative project.

In reviewing applications, the superintendent shall be limited to: (a) The granting of waivers from statutory requirements, for which the superintendent of public instruction has the express power to implement pursuant to the adoption of rules, or administrative rules that need to be waived in order for the proposed cooperative project to be implemented: **PROVIDED**, That no statutory requirement or administrative rule dealing with health, safety, or civil rights may be waived; and (b) ensuring the technical accuracy of the application.

Any waiver granted by the superintendent of public instruction shall be reviewed and may be renewed by the superintendent every five years subject to the participating districts submitting a new application pursuant to this section.

(3) If additional eligible school districts wish to participate in an existing cooperative project the cooperative project as a whole shall reapply for review by the superintendent of public instruction. [1990 c 33 § 368; 1988 c 268 § 4. Formerly RCW 28A.100.084.]

Findings—Severability—1988 c 268: See notes following RCW 28A.340.010.

28A.340.040 Adoption of salary schedules—Computation of fringe benefits. (1) School districts participating in a cooperative project pursuant to RCW 28A.340.030 may adopt identical salary schedules following compliance with chapter 41.59 RCW: **PROVIDED**, That if the districts participating in a cooperative project adopt identical salary schedules, the participating districts shall be considered a single school district for purposes of establishing compliance with the salary limitations of RCW 28A.400.200(3) but not for the purposes of allocation of state funds.

(2) For purposes of computing fringe benefit contributions for purposes of establishing compliance with RCW 28A.400.200(3)(b), the districts participating in a cooperative project pursuant to RCW 28A.340.030 may use the greater of: (a) The highest amount provided in the 1986-87 school year by a district participating in the cooperative project; or (b) the amount authorized for such purposes in the state operating appropriations act in effect at the time. [1990 c 33 § 369; 1988 c 268 § 5. Formerly RCW 28A.100.086.]

Findings—Severability—1988 c 268: See notes following RCW 28A.340.010.

28A.340.050 Report to the superintendent of public instruction—Report to the legislature. (1) School districts participating in a cooperative project established under RCW 28A.340.030 shall submit a report to the superintendent of public instruction by September 1 of the third year of operation of the cooperative project and by September 1 of the fifth year of the cooperative project.

(2) (a) The third year report shall indicate the progress of the cooperative project in meeting the objectives set forth in the application pursuant to RCW 28A.340.030.

(b) The fifth year report shall evaluate the success of the cooperative project in meeting the objectives set forth in the application pursuant to RCW 28A.340.030 and may include an application for renewal of the cooperative project.

(3) The superintendent of public instruction shall submit a report to the legislature by January 1 of every third odd-numbered year beginning January 1, 1989. The report shall include information about the number of school districts participating in cooperative projects and findings and recommendations about the educational effectiveness and cost-effectiveness of the cooperative projects. The report shall also include any findings and recommendations as determined by the superintendent regarding the relationship of the small high school factor in the state operating appropriations act to cooperative projects established under RCW 28A.340.010 through 28A.340.070. [1990 c 33 § 370; 1988 c 268 § 7. Formerly RCW 28A.100.088.]

Findings—Severability—1988 c 268: See notes following RCW 28A.340.010.

28A.340.060 Rules. (1) The superintendent of public instruction shall adopt rules as necessary under chapter 34.05 RCW to carry out the provisions of RCW 28A.340.010 through 28A.340.070.

(2) When the joint operation of programs or services includes the teaching of all or substantially all of the curriculum for a particular grade or grades in only one local school district, the rules shall provide that the affected students are attending school in the district in which they reside for the purposes of RCW 28A.150.250 and 28A.150.260 and chapter 28A.545 RCW. [1990 c 33 § 371; 1988 c 268 § 8. Formerly RCW 28A.100.090.]

Findings—Severability—1988 c 268: See notes following RCW 28A.340.010.

28A.340.070 Allocation of state funds for technical assistance—Contracting with agencies for technical assistance. (1) The superintendent of public instruction may allocate state funds, as may be appropriated, to provide

technical assistance to eligible school districts interested in developing and implementing a cooperative project.

(2) The superintendent of public instruction may contract with other agencies to provide some or all of the technical assistance under subsection (1) of this section. [1988 c 268 § 9. Formerly RCW 28A.100.092.]

Findings—Severability—1988 c 268: See notes following RCW 28A.340.010.

Chapter 28A.345

WASHINGTON STATE SCHOOL DIRECTORS' ASSOCIATION

Sections

28A.345.010	Association created.
28A.345.020	Membership.
28A.345.030	Powers of association.
28A.345.040	Coordination of policies—Report.
28A.345.050	Association dues—Payment.
28A.345.060	Audit of staff classifications and employees' salaries—Contract with department of personnel—Copies.
28A.345.902	Effective date—1983 c 187.

Reviser's note—Sunset Act application: The school directors' association is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.371. RCW 28A.345.010 through 28A.345.060 are scheduled for future repeal under RCW 43.131.372.

Motor vehicle transportation services—Washington state school directors' association defined as state agency for purposes of: RCW 43.19.560.

28A.345.010 Association created. The public necessity for the coordination of programs and procedures pertaining to policymaking and to control and management among the school districts of the state is hereby recognized, and in the furtherance of such coordination there is hereby created for said purpose an agency of the state to be known as the Washington state school directors' association, hereinafter designated as the school directors' association. [1969 ex.s. c 223 § 28A.61.010. Prior: 1947 c 169 § 1; Rem. Supp. 1947 § 4709-20. Formerly RCW 28A.61.010, 28.58.320.]

Sunset Act application: See note following chapter digest.

28A.345.020 Membership. The membership of the school directors' association shall comprise the members of the boards of directors of the school districts of the state. [1969 ex.s. c 223 § 28A.61.020. Prior: 1947 c 169 § 2; Rem. Supp. 1947 § 4709-21. Formerly RCW 28A.61.020, 28.58.330.]

Sunset Act application: See note following chapter digest.

28A.345.030 Powers of association. The school directors' association shall have the power:

(1) To prepare and adopt, amend and repeal a constitution and rules and regulations, and bylaws for its own organization including county or regional units and for its government and guidance: PROVIDED, That action taken with respect thereto is consistent with the provisions of this chapter or with other provisions of law;

(2) To arrange for and call such meetings of the association or of the officers and committees thereof as are deemed essential to the performance of its duties;

(3) To provide for the compensation of members of the board of directors in accordance with RCW 43.03.240, and for payment of travel and subsistence expenses incurred by members and/or officers of the association and association staff while engaged in the performance of duties under direction of the association in the manner provided by RCW 28A.320.050;

(4) To employ an executive director and other staff and pay such employees out of the funds of the association;

(5) To conduct studies and disseminate information therefrom relative to increased efficiency in local school board administration;

(6) To buy, lease, sell, or exchange such personal and real property as necessary for the efficient operation of the association and to borrow money, issue deeds of trust or other evidence of indebtedness, or enter into contracts for the purchase, lease, remodeling, or equipping of office facilities or the acquisition of sites for such facilities;

(7) To purchase liability insurance for school directors, which insurance may indemnify said directors against any or all liabilities for personal or bodily injuries and property damage arising from their acts or omissions while performing or while in good faith purporting to perform their official duties as school directors;

(8) To provide advice and assistance to local boards to promote their primary duty of representing the public interest;

(9) Upon request by a local school district board(s) of directors, to make available on a cost reimbursable contract basis (a) specialized services, (b) research information, and (c) consultants to advise and assist district board(s) in particular problem areas: PROVIDED, That such services, information, and consultants are not already available from other state agencies, educational service districts, or from the information and research services authorized by RCW 28A.320.110. [1991 c 66 § 1; 1990 c 33 § 372; 1989 c 325 § 1; 1983 c 187 § 1; 1979 c 151 § 13; 1974 ex.s. c 101 § 1; 1969 ex.s. c 184 § 4; 1969 ex.s. c 223 § 28A.61.030. Prior: 1947 c 169 § 3; Rem. Supp. 1947 § 4709-22. Formerly RCW 28A.61.030, 28.58.340.]

Sunset Act application: See note following chapter digest.

Effective date—1989 c 325: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect June 30, 1989." [1989 c 325 § 3.]

28A.345.040 Coordination of policies—Report. It shall be the duty of the school directors' association (1) to take such action as the association deems advisable to effect a coordination of policymaking, control, and management of the school districts of the state; and (2) to prepare and submit to the superintendent of public instruction annually, and oftener if deemed advisable by the association, reports and recommendations respecting the aforesaid matters and any other matters which in the judgment of the association pertain to an increase in the efficiency of the common school system. [1969 ex.s. c 223 § 28A.61.040. Prior: 1947 c 169 § 4; Rem. Supp. 1947 § 4709-23. Formerly RCW 28A.61.040, 28.58.350.]

Sunset Act application: See note following chapter digest.

28A.345.050 Association dues—Payment. The school directors' association may establish a graduated schedule of dues for members of the association based upon the number of certificated personnel in each district. Dues shall be established for the directors of each district as a group. The total of all dues assessed shall not exceed twenty-seven cents for each one thousand dollars of the state-wide total of all school districts' general fund receipts. The board of directors of a school district shall make provision for payment out of the general fund of the district of the dues of association members resident in the district, which payment shall be made in the manner provided by law for the payment of other claims against the general fund of the district. The dues for each school district shall be due and payable on the first day of January of each year. [1983 c 187 § 2; 1969 c 125 § 2; 1969 ex.s. c 223 § 28A.61.050. Prior: 1967 ex.s. c 8 § 76; 1965 c 103 § 1; 1957 c 281 § 1; 1953 c 226 § 1; 1947 c 169 § 5; Rem. Supp. 1947 § 4709-24. Formerly RCW 28A.61.050, 28.58.360.]

Sunset Act application: See note following chapter digest.

28A.345.060 Audit of staff classifications and employees' salaries—Contract with department of personnel—Copies. The association shall contract with the department of personnel for the department of personnel to audit in odd-numbered years the association's staff classifications and employees' salaries. The association shall give copies of the audit reports to the office of financial management and the committees of each house of the legislature dealing with common schools. [1986 c 158 § 3; 1983 c 187 § 4. Formerly RCW 28A.61.070.]

Sunset Act application: See note following chapter digest.

28A.345.902 Effective date—1983 c 187. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1983. [1983 c 187 § 8. Formerly RCW 28A.61.910.]

Chapter 28A.350

SCHOOL DISTRICT WARRANTS—AUDITOR'S DUTIES

Sections

28A.350.010	Registering warrants—All districts.
28A.350.020	Registering warrants—Second class districts.
28A.350.030	Auditing accounts—All districts.
28A.350.040	Auditor to draw and issue warrants—Second class districts.
28A.350.050	Teacher must qualify before warrant drawn and issued or registered—All districts.
28A.350.060	Liability of auditor for warrants exceeding budget—All districts.
28A.350.070	Orders for warrants not transferable—Second class districts.

28A.350.010 Registering warrants—All districts. The county auditor shall register in the auditor's own office, and present to the treasurer for registration in the office of the county treasurer, all warrants of first class districts, and all warrants of second class districts electing to draw and issue their own warrants under RCW 28A.330.230 received

from school district superintendents or district secretaries before delivery of the same to claimants. [1990 c 33 § 373; 1975 c 43 § 27; 1973 c 111 § 2; 1969 ex.s. c 223 § 28A.66.010. Prior: 1911 c 78 § 1, part; RRS § 4864. Formerly RCW 28A.66.010, 28.66.010.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.315.230.

Severability—1973 c 111: See note following RCW 28A.330.230.

28A.350.020 Registering warrants—Second class districts. The county auditor shall cause all school warrants of second class districts issued by the auditor to be registered in the treasurer's office and shall retain the vouchers on file in the auditor's office. [1990 c 33 § 374; 1975 c 43 § 28; 1969 ex.s. c 223 § 28A.66.020. Prior: 1911 c 78 § 1, part; RRS § 4863. Formerly RCW 28A.66.020, 28.66.020.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.315.230.

28A.350.030 Auditing accounts—All districts. The county auditors of the several counties of this state shall audit all accounts of the several school districts of their respective counties, the same as other accounts are audited with the other departments of the county. [1969 ex.s. c 223 § 28A.66.030. Prior: 1909 c 97 p 308 § 2; RRS § 4858. Formerly RCW 28A.66.030, 28.66.030.]

28A.350.040 Auditor to draw and issue warrants—Second class districts. The county auditor shall draw and issue warrants for the payment of all salaries, expenses and accounts against second class districts, except those who draw and issue their own warrants pursuant to RCW 28A.330.230 upon the written order of the majority of the members of the school board of each district. [1990 c 33 § 375; 1975 c 43 § 29; 1973 c 111 § 3; 1969 ex.s. c 223 § 28A.66.040. Prior: 1909 c 97 p 308 § 3; RRS § 4859. Formerly RCW 28A.66.040, 28.66.040.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.315.230.

Severability—1973 c 111: See note following RCW 28A.330.230.

28A.350.050 Teacher must qualify before warrant drawn and issued or registered—All districts. No warrant shall be drawn and issued or registered by the county auditor for the payment of any teacher who is not qualified within the meaning of the law of this state. [1973 c 72 § 1; 1971 c 48 § 45; 1969 ex.s. c 223 § 28A.66.050. Prior: 1909 c 97 p 308 § 4; RRS § 4860. Formerly RCW 28A.66.050, 28.66.050.]

Severability—1971 c 48: See note following RCW 28A.305.040.

28A.350.060 Liability of auditor for warrants exceeding budget—All districts. Any county auditor issuing or causing to be issued a district warrant for any sum in excess of total disbursements of a district's annual budget shall be personally liable therefor, and shall reimburse the district in double the amount of any such sum. [1975-'76 2nd ex.s. c 118 § 31; 1969 ex.s. c 223 § 28A.66.070. Prior: 1959 c 216 § 22; prior: 1933 c 28 § 2, part; 1909 c 97 p 288 § 9, part; 1897 c 118 § 46, part; 1893 c 107 § 3, part; RRS § 4784, part. Formerly RCW 28A.66.070, 28.66.070.]

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

28A.350.070 Orders for warrants not transferable—Second class districts. An order for a warrant issued by any board of directors of second class school districts shall not be transferable, and the county auditor shall issue no warrant except to individuals or firms designated in original district orders. [1975 c 43 § 30; 1969 ex.s. c 223 § 28A.66.080. Prior: 1959 c 216 § 23; prior: 1933 c 28 § 2, part; 1909 c 97 p 288 § 9, part; 1897 c 118 § 46, part; 1893 c 107 § 3, part; RRS § 4784, part. Formerly RCW 28A.66.080, 28.66.080.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.315.230.

Chapter 28A.400 EMPLOYEES

Sections

SUPERINTENDENTS

- 28A.400.010 Employment of superintendent—Superintendent's qualifications, general powers, term, contract renewal.
28A.400.020 Directors' and superintendents' signatures filed with auditor.
28A.400.030 Superintendent's duties.

PRINCIPALS

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INSURANCE

28A.400.350	Liability, life, health, health care, accident, disability, and salary insurance authorized—When required—Premiums.
28A.400.360	Liability insurance for officials and employees authorized.
28A.400.370	Mandatory insurance protection for employees.
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28A.400.391	Insurance for retired and disabled employees—Application—Rules.
28A.400.395	Insurance for retired employees and their dependents—Method of payment of premium.

Educational employment relations act: Chapter 41.59 RCW.

SUPERINTENDENTS

28A.400.010 Employment of superintendent—Superintendent's qualifications, general powers, term, contract renewal. In all districts the board of directors shall elect a superintendent who shall have such qualification as the local school board alone shall determine. The superintendent shall have supervision over the several departments of the schools thereof and carry out such other powers and duties as prescribed by law. Notwithstanding the provisions of RCW 28A.400.300(1), the board may contract with such superintendent for a term not to exceed three years when deemed in the best interest of the district. The right to renew a contract of employment with any school superintendent shall rest solely with the discretion of the school board employing such school superintendent. Regarding such renewal of contracts of school superintendents the provisions of RCW 28A.405.210, 28A.405.240, and 28A.645.010 shall be inapplicable. [1990 c 33 § 376; 1985 c 7 § 94; 1975-'76 2nd ex.s. c 114 § 10; 1975-'76 2nd ex.s. c 15 § 10. Prior: 1975 1st ex.s. c 254 § 2; 1975-'76 1st ex.s. c 137 § 1; 1969 ex.s. c 223 § 28A.58.137; prior: (i) 1909 c 97 p 300 § 11; RRS § 4821. Formerly RCW 28.63.060. (ii) 1909 c 97 p 302 § 8; RRS § 4830. Formerly RCW 28.63.062. (iii) 1909 c 97 p 302 § 9; RRS § 4831. Formerly RCW 28.63.064. (iv) 1909 c 97 p 290 § 4, part; RRS § 4793, part. Formerly RCW 28A.58.137, 28.62.040, part.]

Savings—1975-'76 2nd ex.s. c 114: "Nothing in this 1976 amendatory act shall be construed to annul or to modify or to preclude the continuation of any lawful agreement entered into prior to the effective date of this 1976 amendatory act." [1975-'76 2nd ex.s. c 114 § 11.]

Severability—1975-'76 2nd ex.s. c 114: "If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975-'76 2nd ex.s. c 114 § 12.]

Reimbursement of expenses of directors, other school representatives, and superintendent candidates—Advancing anticipated expenses: RCW 28A.320.050.

28A.400.020 Directors' and superintendents' signatures filed with auditor. Every school district director and school district superintendent, on assuming the duties of his or her office, shall place his or her signature, certified to by some school district official, on file in the office of the

county auditor. [1990 c 33 § 377; 1969 ex.s. c 223 § 28A.58.140. Prior: 1909 c 97 p 289 § 12; RRS § 4787; prior: 1897 c 118 § 61; 1890 p 380 § 70. Formerly RCW 28A.58.140, 28.58.140.]

28A.400.030 Superintendent's duties. In addition to such other duties as a district school board shall prescribe the school district superintendent shall:

(1) Attend all meetings of the board of directors and cause to have made a record as to the proceedings thereof.

(2) Keep such records and reports and in such form as the district board of directors require or as otherwise required by law or rule or regulation of higher administrative agencies and turn the same over to his or her successor.

(3) Keep accurate and detailed accounts of all receipts and expenditures of school money. At each annual school meeting the superintendent must present his or her record book of board proceedings for public inspection, and shall make a statement of the financial condition of the district and such record book must always be open for public inspection.

(4) Give such notice of all annual or special elections as otherwise required by law; also give notice of the regular and special meetings of the board of directors.

(5) Sign all orders for warrants ordered to be issued by the board of directors.

(6) Carry out all orders of the board of directors made at any regular or special meeting. [1991 c 116 § 14; 1990 c 33 § 378; 1983 c 56 § 8; 1977 ex.s. c 80 § 30; 1975-'76 2nd ex.s. c 118 § 30; 1975 1st ex.s. c 275 § 110; 1971 c 48 § 30; 1969 ex.s. c 223 § 28A.58.150. Prior: 1909 c 97 p 304 § 2; RRS § 4842; prior: 1907 c 163 § 3; 1899 c 142 § 10; 1897 c 118 § 49; 1893 c 107 § 5; 1891 c 127 § 12; 1890 p 367 § 34; Code 1881 §§ 3194, 3195, 3196, 3197; 1873 p 428 § § 10, 11, 12, 13. Formerly RCW 28A.58.150, 28.58.150.]

Severability—1983 c 56: See note following RCW 28A.195.010.

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

Severability—1971 c 48: See note following RCW 28A.305.040.

PRINCIPALS

28A.400.100 Principals and vice principals—Employment of—Qualifications—Duties. School districts may employ public school principals and/or vice principals to supervise the operation and management of the school to which they are assigned. Such persons shall hold valid teacher and administrative certificates. In addition to such other duties as shall be prescribed by law and by the job description adopted by the board of directors, each principal shall:

(1) Assume administrative authority, responsibility and instructional leadership, under the supervision of the school district superintendent, and in accordance with the policies of the school district board of directors, for the planning, management, supervision and evaluation of the educational program of the attendance area for which he or she is responsible.

(2) Submit recommendations to the school district superintendent regarding appointment, assignment, promotion, transfer and dismissal of all personnel assigned to the attendance area for which he or she is responsible.

(3) Submit recommendations to the school district superintendent regarding the fiscal needs to maintain and improve the instructional program of the attendance area for which he or she is responsible.

(4) Assume administrative authority and responsibility for the supervision, counseling and discipline of pupils in the attendance area for which he or she is responsible. [1977 ex.s. c 272 § 1. Formerly RCW 28A.58.160.]

Severability—1977 ex.s. c 272: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 272 § 2.]

28A.400.110 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.600.020(3). [1990 c 33 § 379; 1980 c 171 § 2; 1975-'76 2nd ex.s. c 97 § 3. Formerly RCW 28A.58.201.]

DELIVERY OF MATERIALS TO SUCCESSORS

28A.400.150 Officials and employees to deliver books, papers and moneys to successors. Every school official and employee, prior to termination of office or employment, shall deliver to his or her successor all books, papers and moneys pertaining to his or her office or employment. [1990 c 33 § 380; 1969 ex.s. c 223 § 28A.58.170. Prior: 1909 c 97 p 288 § 10; RRS § 4785; prior: 1897 c 118 § 60; 1890 p 386 § 69. Formerly RCW 28A.58.170, 28.58.170.]

SALARY AND COMPENSATION

28A.400.200 Salaries and compensation for employees—Minimum amounts—Limitations—Supplemental contracts. (1) Every school district board of directors shall fix, alter, allow, and order paid salaries and compensation for all district employees in conformance with this section.

(2)(a) Salaries for certificated instructional staff shall not be less than the salary provided in the appropriations act in the state-wide salary allocation schedule for an employee with a baccalaureate degree and zero years of service; and

(b) Salaries for certificated instructional staff with a masters degree shall not be less than the salary provided in the appropriations act in the state-wide salary allocation schedule for an employee with a masters degree and zero years of service;

(3)(a) The actual average salary paid to basic education certificated instructional staff shall not exceed the district's average basic education certificated instructional staff salary

used for the state basic education allocations for that school year as determined pursuant to RCW 28A.150.410.

(b) Fringe benefit contributions for basic education certificated instructional staff shall be included as salary under (a) of this subsection to the extent that the district's actual average benefit contribution exceeds the greater of: (i) The formula amount for insurance benefits provided per certificated instructional staff unit in the state operating appropriations act in effect at the time the compensation is payable; or (ii) the actual average amount provided by the school district in the 1986-87 school year. For purposes of this section, fringe benefits shall not include payment for unused leave for illness or injury under RCW 28A.400.210, or employer contributions for old age survivors insurance, workers' compensation, unemployment compensation, and retirement benefits under the Washington state retirement system.

(c) Salary and benefits for certificated instructional staff in programs other than basic education shall be consistent with the salary and benefits paid to certificated instructional staff in the basic education program.

(4) Salaries and benefits for certificated instructional staff may exceed the limitations in subsection (3) of this section only by separate contract for additional time, additional responsibilities, or incentives. Supplemental contracts shall not cause the state to incur any present or future funding obligation. Supplemental contracts shall be subject to the collective bargaining provisions of chapter 41.59 RCW and the provisions of RCW 28A.405.240, shall not exceed one year, and if not renewed shall not constitute adverse change in accordance with RCW 28A.405.300 through 28A.405.380. No district may enter into a supplemental contract under this subsection for the provision of services which are a part of the basic education program required by Article IX, section 3 of the state Constitution.

(5) Employee benefit plans offered by any district shall comply with RCW 28A.400.350 and 28A.400.275 and 28A.400.280. [1990 1st ex.s. c 11 § 2; 1990 c 33 § 381; 1987 1st ex.s. c 2 § 205. Formerly RCW 28A.58.0951.]

Reviser's note: This section was amended by 1990 c 33 § 381 and by 1990 1st ex.s. c 11 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent—1990 1st ex.s. c 11: "The legislature recognizes the rising costs of health insurance premiums for school employees, and the increasing need to ensure effective use of state benefit dollars to obtain basic coverage for employees and their dependents. In school districts that do not pool benefit allocations among employees, increases in premium rates create particular hardships for employees with families. For many of these employees, the increases translate directly into larger payroll deductions simply to maintain basic benefits.

The goal of this act is to provide access for school employees to basic coverage, including coverage for dependents, while minimizing employees' out-of-pocket premium costs. Unnecessary utilization of medical services can contribute to rising health insurance costs. Therefore, the legislature intends to encourage plans that promote appropriate utilization without creating major barriers to access to care. The legislature also intends that school districts pool state benefit allocations so as to eliminate major differences in out-of-pocket premium expenses for employees who do and do not need coverage for dependents." [1990 1st ex.s. c 11 § 1.]

Intent—Severability—Effective date—1987 1st ex.s. c 2: See notes following RCW 84.52.0531.

28A.400.210 Employee attendance incentive program—Remuneration or benefit plan for unused sick

leave. Every school district board of directors may, in accordance with chapters 41.56 and 41.59 RCW, establish an attendance incentive program for all certificated and noncertificated employees in the following manner, including covering persons who were employed during the 1982-'83 school year:

(1) 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. 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.

(2) Except as provided in RCW 28A.400.212, 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.

(3) In lieu of remuneration for unused leave for illness or injury as provided in subsections (1) and (2) of this section, a school district board of directors may, with equivalent funds, provide eligible employees a benefit plan that provides reimbursement for medical expenses. Any benefit plan adopted after July 28, 1991, shall require, as a condition of participation under the plan, that the employee sign an agreement with the district to hold the district harmless should the United States government find that the district or the employee is in debt to the United States as a result of the employee not paying income taxes due on the equivalent funds placed into the plan, or as a result of the district not withholding or deducting any tax, assessment, or other payment on such funds as required under federal law.

Moneys or benefits 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. [1992 c 234 § 12; 1991 c 92 § 2; 1989 c 69 § 2; 1983 c 275 § 2. Formerly RCW 28A.58.096.]

Intent—Construction—1983 c 275: "This act is intended to effectuate the legislature's intent in the original enactment of chapter 182, Laws of 1980 and constitutes a re-adoption of the relevant portions of that law. This act shall be construed as being in effect since June 12, 1980." [1983 c 275 § 5.]

28A.400.212 Employee attendance incentive program—Effect of early retirement. An employee of a school district that has established an attendance incentive program under RCW 28A.400.210 who retires under section 1 or 3, chapter 234, Laws of 1992 shall receive, at the time

of his or her separation from school district employment, not less than one-half of the remuneration for accrued leave for illness or injury payable to him or her under the district's incentive program. The school district board of directors may, at its discretion, pay the remainder of such an employee's remuneration for accrued leave for illness or injury after the time of the employee's separation from school district employment, but the employee or the employee's estate is entitled to receive the remainder of the remuneration no later than the date the employee would have been eligible to retire under the provisions of RCW 41.40.180 or 41.32.480 had the employee continued to work for the district until eligible to retire, or three years following the date of the employee's separation from school district employment, whichever occurs first. A district exercising its discretion under this section to pay the remainder of the remuneration after the time of the employee's separation from school district employment shall establish a policy and procedure for paying the remaining remuneration that applies to all affected employees equally and without discrimination. Any remuneration paid shall be based on the number of days of leave the employee had accrued and the compensation the employee received at the time he or she retired under section 1 or 3, chapter 234, Laws of 1992. [1992 c 234 § 13.]

28A.400.220 Employee salary or compensation—Limitations respecting. (1) No school district board of directors or administrators may:

- (a) Increase an employee's salary or compensation to include a payment in lieu of providing a fringe benefit; or
- (b) Allow any payment to an employee which is partially or fully conditioned on the termination or retirement of the employee, except as provided in subsection (2) of this section.

(2) A school district board of directors may compensate an employee for termination of the employee's contract in accordance with the termination provisions of the contract. If no such provisions exist the compensation must be reasonable based on the proportion of the uncompleted contract. Compensation received under this subsection shall not be included for the purposes of computing a retirement allowance under any public retirement system in this state.

(3) Provisions of any contract in force on March 27, 1982, which conflict with the requirements of this section shall continue in effect until contract expiration. After expiration, any new contract including any renewal, extension, amendment or modification of an existing contract executed between the parties shall be consistent with this section. [1989 c 11 § 5; 1982 1st ex.s. c 10 § 1. Formerly RCW 28A.58.098.]

Severability—1989 c 11: See note following RCW 9A.56.220.

Severability—1982 1st ex.s. c 10: "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." [1982 1st ex.s. c 10 § 3.]

28A.400.230 Deposit of cumulative total of earnings of group of employees—Authorized—Conditions. Any school district authorized to draw and issue their own warrants may deposit the cumulative total of the net earnings of any group of employees in one or more banks within the state such group or groups may designate, to be credited to

the individuals composing such groups, by a single warrant to each bank so designated or by other commercially acceptable methods: PROVIDED, That any such collective authorization shall be made in writing by a minimum of twenty-five employees or ten percent of the employees, whichever is less. [1973 c 111 § 5. Formerly RCW 28A.58.730.]

Severability—1973 c 111: See note following RCW 28A.330.230.

28A.400.240 Deferred compensation plan for district employees—Limitations. In addition to any other powers and duties, any school district may contract with any classified or certificated employee to defer a portion of that employee's income, which deferred portion shall in no event exceed the appropriate internal revenue service exclusion allowance for such plans, and shall subsequently with the consent of the employee, deposit or invest in a credit union, savings and loan association, bank, mutual savings bank, or purchase life insurance, shares of an investment company, or a fixed and/or variable annuity contract, for the purpose of funding a deferred compensation program for the employee, from any life underwriter or registered representative duly licensed by this state who represents an insurance company or an investment company licensed to contract business in this state. In no event shall the total investments or payments, and the employee's nondeferred income for any year exceed the total annual salary, or compensation under the existing salary schedule or classification plan applicable to such employee in such year. Any income deferred under such a plan shall continue to be included as regular compensation, for the purpose of computing the retirement and pension benefits earned by any employee, but any sum so deducted shall not be included in the computation of any taxes withheld on behalf of any such employee. [1975 1st ex.s. c 205 § 1; 1974 ex.s. c 11 § 1. Formerly RCW 28A.58.740.]

28A.400.250 Tax deferred annuities. The board of directors of any school district, the Washington state teachers' retirement system, the superintendent of public instruction, and educational service district superintendents are authorized to provide and pay for tax deferred annuities for their respective employees in lieu of a portion of salary or wages as authorized under the provisions of 26 U.S.C., section 403(b), as amended by Public Law 87-370, 75 Stat. 796, as now or hereafter amended. The superintendent of public instruction and educational service district superintendents, if eligible, may also be provided with such annuities.

At the request of at least five employees, the employees' employer shall arrange for the purchase of tax deferred annuity contracts which meet the requirements of 26 U.S.C., section 403(b), as now or hereafter amended, for the employees from any company the employees may choose that is authorized to do business in this state through a Washington-licensed insurance agent that the employees may select. Payroll deductions shall be made in accordance with the arrangements for the purpose of paying the entire premium due and to become due under the contracts. Employees' rights under the annuity contract are nonforfeitable except for the failure to pay premiums.

The board of directors of any school district, the Washington state teachers' retirement system, the superintendent of public instruction, and educational service district superintendents shall not restrict, except as provided in this section, employees' right to select the tax deferred annuity of their choice or the agent, broker, or company licensed by the state of Washington through which the tax deferred annuity is placed or purchased, and shall not place limitations on the time or place that the employees make the selection.

The board of directors of any school district, the Washington state teachers' retirement system, the superintendent of public instruction, and educational service district superintendents may each adopt rules regulating the sale of tax deferred annuities which: (1) Prohibit solicitation of employees for the purposes of selling tax deferred annuities on school premises during normal school hours; (2) only permit the solicitation of tax deferred annuities by agents, brokers, and companies licensed by the state of Washington; and (3) require participating companies to execute reasonable agreements protecting the respective employers from any liability attendant to procuring tax deferred annuities. [1984 c 228 § 1; 1975 1st ex.s. c 275 § 113; 1971 c 48 § 31; 1969 c 97 § 2; 1969 ex.s. c 223 § 28A.58.560. Prior: 1965 c 54 § 1, part. Formerly RCW 28A.58.560, 28.02.120, part.]

Severability—1971 c 48: See note following RCW 28A.305.040.

28A.400.260 Pension benefits or annuity benefits for certain classifications of employees—Procedure. Notwithstanding any other provision of law, any school district shall have the authority to provide for all employees within an employment classification pension benefits or annuity benefits as may already be established and in effect by other employers of a similar classification of employees, and payment therefor may be made by making contributions to such pension plans or funds already established and in effect by the other employers and in which the school district is permitted to participate for such particular classifications of its employees by the trustees or other persons responsible for the administration of such established plans or funds.

Notwithstanding provisions of RCW 41.40.023(4), the coverage under such private plan shall not exclude such employees from simultaneous coverage under the Washington public employees' retirement system. [1972 ex.s. c 27 § 1. Formerly RCW 28A.58.565.]

28A.400.270 Employee benefit—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 28A.400.275 and 28A.400.280.

(1) "School district employee benefit plan" means the overall plan used by the district for distributing fringe benefit subsidies to employees, including the method of determining employee coverage and the amount of employer contributions, as well as the characteristics of benefit providers and the specific benefits or coverage offered. It shall not include coverage offered to district employees for which there is no contribution from public funds.

(2) "Fringe benefit" does not include liability coverage, old-age survivors' insurance, workers' compensation,

unemployment compensation, retirement benefits under the Washington state retirement system, or payment for unused leave for illness or injury under RCW 28A.400.210.

(3) "Basic benefits" are determined through local bargaining and are limited to medical, dental, vision, group term life, and group long-term disability insurance coverage.

(4) "Benefit providers" include insurers, third party claims administrators, direct providers of employee fringe benefits, health maintenance organizations, health care service contractors, and the Washington state health care authority or any plan offered by the authority.

(5) "Group term life insurance coverage" means term life insurance coverage provided for, at a minimum, all full-time employees in a bargaining unit or all full-time nonbargaining group employees.

(6) "Group long-term disability insurance coverage" means long-term disability insurance coverage provided for, at a minimum, all full-time employees in a bargaining unit or all full-time nonbargaining group employees. [1990 1st ex.s. c 11 § 4.]

Intent—1990 1st ex.s. c 11: See note following RCW 28A.400.200.

28A.400.275 Employee benefits—Contracts. (1)

Any contract for employee benefits executed after April 13, 1990, between a school district and a benefit provider or employee bargaining unit is null and void unless it contains an agreement to abide by state laws relating to school district employee benefits. The term of the contract may not exceed one year.

(2) School districts shall annually submit to the Washington state health care authority summary descriptions of all benefits offered under the district's employee benefit plan. The districts shall also submit data to the health care authority specifying the total number of employees and, for each employee, types of coverage or benefits received including numbers of covered dependents, the number of eligible dependents, the amount of the district's contribution, additional premium costs paid by the employee through payroll deductions, and the age and sex of the employee and each dependent. The plan descriptions and the data shall be submitted in a format and according to a schedule established by the health care authority.

(3) Any benefit provider offering a benefit plan by contract with a school district under subsection (1) of this section shall agree to make available to the school district the benefit plan descriptions and, where available, the demographic information on plan subscribers that the district is required to report to the Washington state health care authority under this section.

(4) This section shall not apply to benefit plans offered in the 1989-90 school year. [1990 1st ex.s. c 11 § 5.]

Intent—1990 1st ex.s. c 11: See note following RCW 28A.400.200.

28A.400.280 Employee benefits—Employer contributions. (1) Except as provided in subsection (2) of this section, school districts may provide employer fringe benefit contributions after October 1, 1990, only for basic benefits. However, school districts may continue payments under contracts with employees or benefit providers in effect on April 13, 1990, until the contract expires.

(2) School districts may provide employer contributions after October 1, 1990, for optional benefit plans, in addition to basic benefits, only for employees included in pooling arrangements under this subsection. Optional benefit plans may not include employee beneficiary accounts that can be liquidated by the employee on termination of employment. Optional benefit plans may be offered only if:

(a) The school district pools benefit allocations among employees using a pooling arrangement that includes at least one employee bargaining unit and/or all nonbargaining group employees;

(b) Each full-time employee included in the pooling arrangement is offered basic benefits, including coverage for dependents, without a payroll deduction for premium charges;

(c) Each full-time employee included in the pooling arrangement, regardless of the number of dependents receiving basic coverage, receives the same additional employer contribution for other coverage or optional benefits; and

(d) For part-time employees included in the pooling arrangement, participation in optional benefit plans shall be governed by the same eligibility criteria and/or proration of employer contributions used for allocations for basic benefits.

(3) Savings accruing to school districts due to limitations on benefit options under this section shall be pooled and made available by the districts to reduce out-of-pocket premium expenses for employees needing basic coverage for dependents. School districts are not intended to divert state benefit allocations for other purposes. [1990 1st ex.s. c 11 § 6.]

Intent—1990 1st ex.s. c 11: See note following RCW 28A.400.200.

HIRING AND DISCHARGE

28A.400.300 Hiring and discharging of employees—Seniority and leave benefits, transfers between school districts. 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;

(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 up to a maximum of one hundred eighty days for the purposes of RCW 28A.400.210 and 28A.400.220, and for leave purposes up to a maximum of the number of contract days agreed to in a given contract, but not greater than one year. Such accumulated time may be taken at any time during the school year or up to twelve days per year may be used for the purpose of payments for unused sick leave.

(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.400.210 and 28A.310.490;

(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 the person returns to the employment of the district.

When any certificated or classified employee leaves one school district within the state and commences employment with another school district within the state, the employee shall retain the same seniority, leave benefits and other benefits that the employee had in his or her previous position: PROVIDED, That classified employees who transfer between districts after July 28, 1985, shall not retain any seniority rights other than longevity when leaving one school district and beginning employment with another. 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. [1990 c 33 § 382. Prior: 1985 c 210 § 1; 1985 c 46 § 1; 1983 c 275 § 3. Formerly RCW 28A.58.099.]

Intent—Construction—1983 c 275: See note following RCW 28A.400.210.

28A.400.303 Record checks for employees. School districts, educational service districts, and their contractors hiring employees who will have regularly scheduled unsupervised access to children shall require a record check through the Washington state patrol criminal identification system under RCW 43.43.830 through 43.43.834, 10.97.030, and 10.97.050 and through the federal bureau of investigation before hiring an employee. The record check shall include a fingerprint check using a complete Washington state criminal identification fingerprint card. The requesting entity shall provide a copy of the record report to the applicant. When necessary, applicants may be employed on a conditional basis pending completion of the investigation. If the applicant has had a record check within the previous two years, the district or contractor may waive the requirement. The district, pursuant to chapter 41.59 or 41.56 RCW, or contractor hiring the employee shall determine who shall pay costs associated with the record check. [1992 c 159 § 2.]

Findings—1992 c 159: "The legislature finds that additional safeguards are necessary to ensure the safety of Washington's school children. The legislature further finds that the results from state patrol record checks are more complete when fingerprints of individuals are provided, and that information from the federal bureau of investigation also is necessary to obtain information on out-of-state criminal records. The legislature further finds that confidentiality safeguards in state law are in place to ensure that the rights of applicants for certification or jobs and newly hired employees are protected." [1992 c 159 § 1.]

28A.400.306 Fingerprints accepted by the state patrol—Fingerprints forwarded to the federal bureau of investigation—Conditions—Report to the legislature. The state patrol shall accept fingerprints obtained under this chapter only if it can ensure that the patrol will not retain a record of the fingerprints after the check is complete. It shall not forward fingerprints obtained under this chapter to the federal bureau of investigation unless it can ensure that the federal bureau of investigation will not retain a record of the fingerprints after the check is complete. The state patrol shall report to the house of representatives appropriations committee and the senate ways and means committee on measures taken to implement this section before accepting any fingerprints obtained under this chapter. [1992 c 159 § 9.]

Findings—1992 c 159: See note following RCW 28A.400.303.

28A.400.310 Law against discrimination applicable to districts' employment practices. The provisions of chapter 49.60 RCW as now or hereafter amended shall be applicable to the employment of any certificated or noncertificated employee by any school district organized in this state. [1969 ex.s. c 223 § 28A.02.050. Prior: (i) 1937 c 52 § 1; RRS § 4693-1. Formerly RCW 28.02.050. (ii) 1937 c 52 § 2; RRS § 4693-2. Formerly RCW 28A.02.050, 28.02.051.]

28A.400.315 Employment contracts. Employment contracts entered into between an employer and a superintendent, or administrator as defined in RCW 28A.405.230, under RCW 28A.400.010, 28A.400.300, or 28A.405.210:

(1) Shall end no later than June 30th of the calendar year that the contract expires except that, a contract entered into after June 30th of a given year may expire during that same calendar year; and

(2) Shall not be revised or entered into retroactively. [1990 c 8 § 6.]

Findings—1990 c 8: See note following RCW 41.50.065.

28A.400.320 Crimes against children—Mandatory termination of classified employees—Appeal. (1) The school district board of directors shall immediately terminate the employment of any classified employee who has contact with children during the course of his or her employment upon a guilty plea or conviction of any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under chapter 9A.88 RCW, the sale or purchase of a minor child under RCW 9A.64.030, or violation of similar laws of another jurisdiction.

(2) The employee shall have a right of appeal under chapter 28A.645 RCW including any right of appeal under a collective bargaining agreement. [1990 c 33 § 383; 1989 c 320 § 3. Formerly RCW 28A.58.1001.]

Severability—1989 c 320: See note following RCW 28A.410.090.

Crimes against children—Notification of conviction or guilty plea of school employee: RCW 43.43.845.

28A.400.330 Crimes against children—Contractor employees—Termination of contract. The school district board of directors shall include in any contract for services with an entity or individual other than an employee of the school district a provision requiring the contractor to prohibit any employee of the contractor from working at a public school who has contact with children at a public school during the course of his or her employment and who has pled guilty to or been convicted of any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under chapter 9A.88 RCW, the sale or purchase of a minor child under RCW 9A.64.030, or violation of similar laws of another jurisdiction. The contract shall also contain a provision that any failure to comply with this section shall be grounds for the school district immediately terminating the contract. [1989 c 320 § 4. Formerly RCW 28A.58.1002.]

Severability—1989 c 320: See note following RCW 28A.410.090.

28A.400.340 Notice of discharge to contain notice of right to appeal if available. Any notice of discharge given to a classified or certificated employee, if that employee has a right to appeal the discharge, shall contain notice of that right, notice that a description of the appeal process is

available, and how the description of the appeal process may be obtained. [1991 c 102 § 1.]

INSURANCE

28A.400.350 Liability, life, health, health care, accident, disability, and salary insurance authorized—When required—Premiums. (1) The board of directors of any of the state's school districts may make available liability, life, health, health care, accident, disability and salary protection or insurance or any one of, or a combination of the enumerated types of insurance, or any other type of insurance or protection, for the members of the boards of directors, the students, and employees of the school district, and their dependents. Such coverage may be provided by contracts with private carriers, with the state health care authority after July 1, 1990, pursuant to the approval of the authority administrator, or through self-insurance or self-funding pursuant to chapter 48.62 RCW, or in any other manner authorized by law.

(2) Whenever funds are available for these purposes the board of directors of the school district may contribute all or a part of the cost of such protection or insurance for the employees of their respective school districts and their dependents. The premiums on such liability insurance shall be borne by the school district.

After October 1, 1990, school districts may not contribute to any employee protection or insurance other than liability insurance unless the district's employee benefit plan conforms to RCW 28A.400.275 and 28A.400.280.

(3) For school board members and students, the premiums due on such protection or insurance shall be borne by the assenting school board member or student: PROVIDED, That the school district may contribute all or part of the costs, including the premiums, of life, health, health care, accident or disability insurance which shall be offered to all students participating in interschool activities on the behalf of or as representative of their school or school district. The school district board of directors may require any student participating in extracurricular interschool activities to, as a condition of participation, document evidence of insurance or purchase insurance that will provide adequate coverage, as determined by the school district board of directors, for medical expenses incurred as a result of injury sustained while participating in the extracurricular activity. In establishing such a requirement, the district shall adopt regulations for waiving or reducing the premiums of such coverage as may be offered through the school district to students participating in extracurricular activities, for those students whose families, by reason of their low income, would have difficulty paying the entire amount of such insurance premiums. The district board shall adopt regulations for waiving or reducing the insurance coverage requirements for low-income students in order to assure such students are not prohibited from participating in extracurricular interschool activities.

(4) All contracts for insurance or protection written to take advantage of the provisions of this section shall provide that the beneficiaries of such contracts may utilize on an equal participation basis the services of those practitioners licensed pursuant to chapters 18.22, 18.25, 18.53, 18.57, and

18.71 RCW. [1990 1st ex.s. c 11 § 3; 1990 c 74 § 1; 1988 c 107 § 16; 1985 c 277 § 8; 1977 ex.s. c 255 § 1; 1973 1st ex.s. c 9 § 1; 1971 ex.s. c 269 § 2; 1971 c 8 § 3; 1969 ex.s. c 237 § 3; 1969 ex.s. c 223 § 28A.58.420. Prior: 1967 c 135 § 2, part; 1959 c 187 § 1, part. Formerly RCW 28A.58.420, 28.76.410, part.]

Reviser's note: This section was amended by 1990 c 74 § 1 and by 1990 1st ex.s. c 11 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent—1990 1st ex.s. c 11: See note following RCW 28A.400.200.

Implementation—Effective dates—1988 c 107: See RCW 41.05.901.

Retrospective application—1985 c 277: See note following RCW 48.01.050.

Severability—1971 ex.s. c 269: "If any provision of this 1971 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 269 § 4.]

Hospitalization and medical insurance authorized: RCW 41.04.180.

Operation of student transportation program responsibility of local district—Scope—Transporting of elderly—Insurance: RCW 28A.160.010.

Retirement allowance deductions for health care benefit plans: RCW 41.04.235.

28A.400.360 Liability insurance for officials and employees authorized. The board of directors of each school district may purchase liability insurance with such limits as they may deem reasonable for the purpose of protecting their officials and employees against liability for personal or bodily injuries and property damage arising from their acts or omissions while performing or in good faith purporting to perform their official duties. [1973 c 125 § 1. Formerly RCW 28A.58.423.]

28A.400.370 Mandatory insurance protection for employees. Notwithstanding any other provision of law, after August 9, 1971 boards of directors of all school districts shall provide their employees with insurance protection covering those employees while engaged in the maintenance of order and discipline and the protection of school personnel and students and the property thereof when that is deemed necessary by such employees. Such insurance protection must include as a minimum, liability insurance covering injury to persons and property, and insurance protecting those employees from loss or damage of their personal property incurred while so engaged. [1971 ex.s. c 269 § 1. Formerly RCW 28A.58.425.]

Severability—1971 ex.s. c 269: See note following RCW 28A.400.350.

28A.400.380 Leave sharing program. Every school district board of directors and educational service district superintendent may, in accordance with RCW 41.04.650 through 41.04.665, establish and administer a leave sharing program for their certificated and noncertificated employees. For employees of school districts and educational service districts, the superintendent of public instruction shall adopt standards: (1) Establishing appropriate parameters for the program which are consistent with the provisions of RCW 41.04.650 through 41.04.665; and (2) establishing procedures to ensure that the program does not significantly

increase the cost of providing leave. [1990 c 23 § 4; 1989 c 93 § 6. Formerly RCW 28A.58.0991.]

Severability—1989 c 93: See note following RCW 41.04.650.

28A.400.391 Insurance for retired and disabled employees—Application—Rules. (1) Every group disability insurance policy, health care service contract, health maintenance agreement, and health and welfare benefit plan obtained or created to provide benefits to employees of school districts and their dependents shall contain provisions that permit retired and disabled employees to continue medical, dental, or vision coverage under the group policy, contract, agreement, or plan until June 30, 1994, or until the employee becomes eligible for federal medicare coverage, whichever occurs first. The terms and conditions for election and maintenance of such continued coverage shall conform to the standards established under the federal consolidated omnibus budget reconciliation act of 1985, as amended. The period of continued coverage provided under this section shall run concurrently with any period of coverage guaranteed under the federal consolidated omnibus budget reconciliation act of 1985, as amended.

(2) This section applies to:

(a) School district employees who retired or lost insurance coverage due to disability after July 28, 1991;

(b) School district employees who retired or lost insurance coverage due to disability within the eighteen-month period ending on July 28, 1991; and

(c) School district employees who retired or lost insurance coverage due to disability prior to January 28, 1990, and who were covered by their employing district's insurance plan on January 1, 1991.

(3) For the purposes of this section "retired employee" means an employee who separates from district service and is eligible at the time of separation from service to receive, immediately following separation from service, a retirement allowance under chapter 41.32 or 41.40 RCW.

(4) The superintendent of public instruction shall adopt administrative rules to implement this section. [1992 c 152 § 1.]

28A.400.395 Insurance for retired employees and their dependents—Method of payment of premium. A group disability insurance policy, health care service contract, health maintenance agreement, or health and welfare benefit plan that provides benefits to retired school district employees and eligible dependents shall not require the beneficiary to make payment by monthly deduction from the beneficiary's state retirement allowance if the payment exceeds the retirement allowance. In such cases, the payment may be made directly by the individual beneficiary. [1992 c 152 § 3.]

Chapter 28A.405

CERTIFICATED EMPLOYEES

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QUALIFICATIONS

28A.405.010 Qualifications—Certificate or permit required. No person shall be accounted as a qualified teacher within the meaning of the school law who is not the holder of a valid teacher's certificate or permit issued by lawful authority of this state. [1969 ex.s. c 223 § 28A.67.010. Prior: 1909 c 97 p 306 § 1; RRS § 4844; prior: 1907 c 240 § 6; 1897 c 118 § 51; 1891 c 127 § 14; 1890 p 369 § 37; 1886 p 18 § 47; 1873 p 430 § 15. Formerly RCW 28A.67.010, 28.67.010.]

28A.405.025 Qualifications—Coursework on issues of abuse. To receive initial certification as a teacher in this state after August 31, 1991, an applicant shall have successfully completed a course on issues of abuse. The content of the course shall discuss the identification of physical, emotional, sexual, and substance abuse, information on the impact of abuse on the behavior and learning abilities of students, discussion of the responsibilities of a teacher to report abuse or provide assistance to students who are the victims of abuse, and methods for teaching students about abuse of all types and their prevention. [1990 c 90 § 1.]

28A.405.030 Must teach morality and patriotism. It shall be the duty of all teachers to endeavor to impress on the minds of their pupils the principles of morality, truth, justice, temperance, humanity and patriotism; to teach them to avoid idleness, profanity and falsehood; to instruct them in the principles of free government, and to train them up to the true comprehension of the rights, duty and dignity of American citizenship. [1969 ex.s. c 223 § 28A.67.110. Prior: 1909 c 97 p 308 § 8; RRS § 4855; prior: 1897 c 118 § 58; 1890 p 371 § 42; 1886 p 19 § 50; Code 1881 § 3203. Formerly RCW 28A.67.110, 28.67.110.]

28A.405.040 Disqualification for failure to emphasize patriotism. No person, whose certificate or permit authorizing him or her to teach in the common schools of this state has been revoked due to his or her failure to endeavor to impress on the minds of his or her pupils the principles of patriotism, or to train them up to the true

comprehension of the rights, duty and dignity of American citizenship, shall be permitted to teach in any common school in this state. [1990 c 33 § 384; 1969 ex.s. c 223 § 28A.67.030. Prior: 1919 c 38 § 2; RRS § 4846. Formerly RCW 28A.67.030, 28.67.030.]

28A.405.050 Noncompliance with RCW 28A.405.040—Penalties. Any person teaching in any school in violation of RCW 28A.405.040, and any school director knowingly permitting any person to teach in any school in violation of RCW 28A.405.040, shall be guilty of a misdemeanor. [1991 c 115 § 1; 1990 c 33 § 385; 1969 ex.s. c 223 § 28A.67.035. Prior: 1919 c 38 § 3; RRS § 4847. Formerly RCW 28A.67.035, 28.67.035, 28.67.120.]

28A.405.060 Course of study and regulations—Enforcement—Withholding salary warrant for failure. Certificated employees shall faithfully enforce in the common schools the course of study and regulations prescribed, whether regulations of the district, the superintendent of public instruction, or the state board of education, and shall furnish promptly all information relating to the common schools which may be requested by the educational service district superintendent.

Any certificated employee who wilfully refuses or neglects to enforce the course of study or the rules and regulations as above in this section required, shall not be allowed by the directors any warrant for salary due until said person shall have complied with said requirements. [1975 1st ex.s. c 275 § 132; 1971 c 48 § 49; 1969 ex.s. c 223 § 28A.67.060. Prior: (i) 1909 c 97 p 307 § 4; RRS § 4850; prior: 1899 c 142 § 11; 1897 c 118 § 54; 1886 p 18 § 47. Formerly RCW 28.67.060. (ii) 1909 c 97 p 360 § 8; RRS § 5051; prior: 1903 c 156 § 8; 1897 c 118 § 166. Formerly RCW 28A.67.060, 28.87.150.]

28A.405.070 Job sharing. In filling a position, school and educational service districts shall consider applications from two individuals wishing to share a job. All announcements of job openings shall contain a statement indicating the district will accept applications from individuals wishing to share the position. Job sharing shall be available to certificated staff. [1989 c 206 § 1. Formerly RCW 28A.58.580.]

CRITERIA FOR EVALUATION AND MODEL PROGRAMS

28A.405.100 Minimum criteria for the evaluation of certificated employees, including administrators—Procedure—Scope—Penalty. (1) The superintendent of public instruction shall establish and may amend from time to time minimum criteria for the evaluation of the professional performance capabilities and development of certificated classroom teachers and certificated support personnel. For classroom teachers the criteria shall be developed in the following categories: Instructional skill; classroom management, professional preparation and scholarship; effort toward improvement when needed; the handling of student discipline and attendant problems; and interest in teaching pupils and knowledge of subject matter.

Every board of directors shall, in accordance with procedure provided in RCW 41.59.010 through 41.59.170, 41.59.910 and 41.59.920, establish evaluative criteria and procedures for all certificated classroom teachers and certificated support personnel. The evaluative criteria must contain as a minimum the criteria established by the superintendent of public instruction pursuant to this section and must be prepared within six months following adoption of the superintendent of public instruction's minimum criteria. The district must certify to the superintendent of public instruction that evaluative criteria have been so prepared by the district.

Except as provided in subsection (5) of this section, it shall be the responsibility of a principal or his or her designee to evaluate all certificated personnel in his or her school. During each school year all classroom teachers and certificated support personnel, hereinafter referred to as "employees" in this section, shall be observed for the purposes of evaluation at least twice in the performance of their assigned duties. Total observation time for each employee for each school year shall be not less than sixty minutes. Following each observation, or series of observations, the principal or other evaluator shall promptly document the results of the evaluation in writing, and shall provide the employee with a copy thereof within three days after such report is prepared. New employees shall be observed at least once for a total observation time of thirty minutes during the first ninety calendar days of their employment period.

Every employee whose work is judged unsatisfactory based on district evaluation criteria shall be notified in writing of stated specific areas of deficiencies along with a suggested specific and reasonable program for improvement on or before February 1st of each year. A probationary period shall be established beginning on or before February 1st and ending no later than May 1st. The purpose of the probationary period is to give the employee opportunity to demonstrate improvements in his or her areas of deficiency. The establishment of the probationary period and the giving of the notice to the employee of deficiency shall be by the school district superintendent and need not be submitted to the board of directors for approval. During the probationary period the evaluator shall meet with the employee at least twice monthly to supervise and make a written evaluation of the progress, if any, made by the employee. The evaluator may authorize one additional certificated employee to evaluate the probationer and to aid the employee in improving his or her areas of deficiency; such additional certificated employee shall be immune from any civil liability that might otherwise be incurred or imposed with regard to the good faith performance of such evaluation. The probationer may be removed from probation if he or she has demonstrated improvement to the satisfaction of the principal in those areas specifically detailed in his or her initial notice of deficiency and subsequently detailed in his or her improvement program. Lack of necessary improvement shall be specifically documented in writing with notification to the probationer and shall constitute grounds for a finding of probable cause under RCW 28A.405.300 or 28A.405.210.

The establishment of a probationary period shall not be deemed to adversely affect the contract status of an employee within the meaning of RCW 28A.405.300.

(2) Every board of directors shall establish evaluative criteria and procedures for all superintendents, principals, and other administrators. It shall be the responsibility of the district superintendent or his or her designee to evaluate all administrators. Such evaluation shall be based on the administrative position job description. Such criteria, when applicable, shall include at least the following categories: Knowledge of, experience in, and training in recognizing good professional performance, capabilities and development; school administration and management; school finance; professional preparation and scholarship; effort toward improvement when needed; interest in pupils, employees, patrons and subjects taught in school; leadership; and ability and performance of evaluation of school personnel.

(3) Each certificated employee shall have the opportunity for confidential conferences with his or her immediate supervisor on no less than two occasions in each school year. Such confidential conference shall have as its sole purpose the aiding of the administrator in his or her professional performance.

(4) The failure of any evaluator to evaluate or supervise or cause the evaluation or supervision of certificated employees or administrators in accordance with this section, as now or hereafter amended, when it is his or her specific assigned or delegated responsibility to do so, shall be sufficient cause for the nonrenewal of any such evaluator's contract under RCW 28A.405.210, or the discharge of such evaluator under RCW 28A.405.300.

(5) After an employee has four years of satisfactory evaluations under subsection (1) of this section, a school district may use a short form of evaluation. The short form of evaluation shall include either a thirty minute observation during the school year with a written summary or a final annual written evaluation based on the criteria in subsection (1) of this section and based on at least two observation periods during the school year totaling at least sixty minutes without a written summary of such observations being prepared. However, the evaluation process set forth in subsection (1) of this section shall be followed at least once every three years and an employee or evaluator may request that the evaluation process set forth in subsection (1) of this section be conducted in any given school year. The short form evaluation process may not be used as a basis for determining that an employee's work is unsatisfactory under subsection (1) of this section nor as probable cause for the nonrenewal of an employee's contract under RCW 28A.405.210. [1990 c 33 § 386; 1985 c 420 § 6; 1975-'76 2nd ex.s. c 114 § 3; 1975 1st ex.s. c 288 § 22; 1969 ex.s. c 34 § 22. Formerly RCW 28A.67.065.]

Severability—1985 c 420: See note following RCW 28A.405.110.

Savings—Severability—1975-'76 2nd ex.s. c 114: See notes following RCW 28A.400.010.

Effective date—1975 1st ex.s. c 288: See RCW 41.59.940.

Severability—1975 1st ex.s. c 288: See RCW 41.59.950.

Construction of chapter—Employee's rights preserved: See RCW 41.59.920.

Construction of chapter—Employer's responsibilities and rights preserved: See RCW 41.59.930.

Criteria used for evaluation of staff members to be included in guide: RCW 28A.150.230.

RCW 28A.405.100 not applicable to contract renewal of school superintendent: RCW 28A.400.010.

28A.405.110 Evaluations—Legislative findings. The legislature recognizes the importance of teachers in the educational system. Teachers are the fundamental element in assuring a quality education for the state's and the nation's children. Teachers, through their direct contact with children, have a great impact on the development of the child. The legislature finds that this important role of the teacher requires an assurance that teachers are as successful as possible in attaining the goal of a well-educated society. The legislature finds, therefore, that the evaluation of those persons seeking to enter the teaching profession is no less important than the evaluation of those persons currently teaching. The evaluation of persons seeking teaching credentials should be strenuous while making accommodations uniquely appropriate to the applicants. Strenuous teacher training and preparation should be complemented by examinations of prospective teachers prior to candidates being granted official certification by the state board of education. Teacher preparation program entrance evaluations, teacher training, teacher preparation program exit examinations, official certification, in-service training, and ongoing evaluations of individual progress and professional growth are all part of developing and maintaining a strong precertification and postcertification professional education system.

The legislature further finds that an evaluation system for teachers has the following elements, goals, and objectives: (1) An evaluation system must be meaningful, helpful, and objective; (2) an evaluation system must encourage improvements in teaching skills, techniques, and abilities by identifying areas needing improvement; (3) an evaluation system must provide a mechanism to make meaningful distinctions among teachers and to acknowledge, recognize, and encourage superior teaching performance; and (4) an evaluation system must encourage respect in the evaluation process by the persons conducting the evaluations and the persons subject to the evaluations through recognizing the importance of objective standards and minimizing subjectivity. [1985 c 420 § 1. Formerly RCW 28A.67.205.]

Contingency—Effective date—1985 c 420: "If specific funding for the purposes of this act, referencing this act by bill number, is not provided by the legislature by July 1, 1987, sections 1 through 5 and 7 through 10 of this act shall be null and void. This act shall be of no effect unless such specific funding is so provided. If such funding is so provided, this act shall take effect when the legislation providing the funding takes effect." [1985 c 420 § 11.]

Reviser's note: (1) 1985 ex.s. c 6 § 501 provides specific funding for the purposes of this act.

(2) 1985 ex.s. c 6 took effect June 27, 1985.

Severability—1985 c 420: "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." [1985 c 420 § 12.]

28A.405.120 Training for evaluators—Superintendent of public instruction to provide technical assistance. School districts shall require each administrator, each principal, or other supervisory personnel who has responsibility for evaluating classroom teachers to have training in evaluation procedures. The superintendent of public instruction shall provide technical assistance to the local school districts and to the educational service districts

in providing training to evaluators. [1985 c 420 § 3. Formerly RCW 28A.67.210.]

Contingency—Effective date—Severability—1985 c 420: See notes following RCW 28A.405.110.

28A.405.130 Training in evaluation procedures required. No administrator, principal, or other supervisory personnel may evaluate a teacher without having received training in evaluation procedures. [1985 c 420 § 4. Formerly RCW 28A.67.215.]

Effective date—1985 c 420 § 4: "Section 4 of this act shall take effect September 1, 1986." [1985 c 420 § 10.]

Contingency—Effective date—Severability—1985 c 420: See notes following RCW 28A.405.110.

28A.405.140 In-service training for teacher may be required after evaluation. After an evaluation conducted pursuant to RCW 28A.405.100, the school district may require the teacher to take in-service training provided by the district in the area of teaching skills needing improvement. [1990 c 33 § 387; 1985 c 420 § 5. Formerly RCW 28A.67.220.]

Contingency—Effective date—Severability—1985 c 420: See notes following RCW 28A.405.110.

28A.405.150 Minimum standards for evaluations—Superintendent of public instruction to develop minimum procedural standards and programs—Establishment and implementation of programs—Reports. (1) The superintendent of public instruction shall develop for field-test purposes, and in consultation with local school directors, administrators, parents, students, the business community, and teachers, minimum procedural standards for evaluations of certificated classroom teachers and certificated support personnel. The minimum procedural standards for evaluation shall be based on available research and shall include: (a) A statement of the purpose of evaluations; (b) the frequency of evaluations, with recognition of the need for more frequent evaluations for beginning teachers; (c) the conduct of the evaluation; (d) the procedure to be used in making the evaluation; and (e) the use of the results of the evaluation.

The superintendent of public instruction shall propose the minimum procedural standards for field tests not later than July 1, 1986.

(2) The superintendent of public instruction shall develop or purchase and conduct field tests in local districts during the 1987-88 and 1988-89 school years model evaluation programs, including standardized evaluation instruments, which meet the minimum standards developed pursuant to subsection (1) of this section and the minimum criteria established pursuant to RCW 28A.405.100. In consultation with school directors, administrators, parents, students, the business community, and teachers, the superintendent of public instruction shall consider a variety of programs such as programs providing for peer review and evaluation input by parents, input by students in appropriate circumstances, instructional assistance teams, and outside professional evaluation. Such programs shall include specific indicators of performance or detailed work expectations against which performance can be measured. The superintendent of public

instruction shall compensate any district participating in such tests for the actual expenses incurred by the district.

(3) Not later than September 1, 1989, the superintendent of public instruction shall adopt state procedural standards and select from one to five model evaluation programs which may be used by local districts in conducting evaluations pursuant to RCW 28A.405.100(1). Local school districts shall establish and implement an evaluation program on or before September 1, 1990, by selecting one of the models approved by the superintendent of public instruction or by adopting an evaluation program pursuant to the bargaining process set forth in chapters 41.56 and 41.59 RCW. Local school districts may adopt an evaluation program which contains criteria and standards in excess of the minimum criteria and standards established by the superintendent of public instruction.

(4) The superintendent of public instruction shall report to the legislature on the progress of the development and field testing of minimum procedural standards and model evaluation programs on or before January 1, 1987, January 1, 1988, and January 1, 1989. [1990 c 33 § 388; 1988 c 241 § 1; 1986 c 73 § 1; 1985 c 420 § 7. Formerly RCW 28A.67.225.]

Contingency—Effective date—Severability—1985 c 420: See notes following RCW 28A.405.110.

28A.405.160 Implementation of minimum standards and model evaluation programs—Superintendent of public instruction to assist. The superintendent of public instruction shall provide technical assistance to local districts for implementation of the minimum standards and model evaluation programs selected under RCW 28A.405.150. [1990 c 33 § 389; 1985 c 420 § 8. Formerly RCW 28A.67.230.]

Contingency—Effective date—Severability—1985 c 420: See notes following RCW 28A.405.110.

CONDITIONS AND CONTRACTS OF EMPLOYMENT

28A.405.200 Annual salary schedules as basis for salaries of certificated employees. Every school district by action of its board of directors shall adopt annual salary schedules and reproduce the same by printing, mimeographing or other reasonable method, which shall be the basis for salaries for all certificated employees in the district. [1969 ex.s. c 283 § 1. Formerly RCW 28A.67.066, 28.67.066.]

Severability—1969 ex.s. c 283: See note following RCW 28A.150.050.

28A.405.210 Conditions and contracts of employment—Determination of probable cause for nonrenewal of contracts—Nonrenewal due to enrollment decline or revenue loss—Notice—Opportunity for hearing. No teacher, principal, supervisor, superintendent, or other certificated employee, holding a position as such with a school district, hereinafter referred to as "employee", shall be employed except by written order of a majority of the directors of the district at a regular or special meeting thereof, nor unless he or she is the holder of an effective teacher's certificate or other certificate required by law or

the state board of education for the position for which the employee is employed.

The board shall make with each employee employed by it a written contract, which shall be in conformity with the laws of this state, and except as otherwise provided by law, limited to a term of not more than one year. Every such contract shall be made in duplicate, one copy to be retained by the school district superintendent or secretary and one copy to be delivered to the employee. No contract shall be offered by any board for the employment of any employee who has previously signed an employment contract for that same term in another school district of the state of Washington unless such employee shall have been released from his or her obligations under such previous contract by the board of directors of the school district to which he or she was obligated. Any contract signed in violation of this provision shall be void.

In the event it is determined that there is probable cause or causes that the employment contract of an employee should not be renewed by the district for the next ensuing term such employee shall be notified in writing on or before May 15th preceding the commencement of such term of that determination, which notification shall specify the cause or causes for nonrenewal of contract. Such determination of probable cause for certificated employees, other than the superintendent, shall be made by the superintendent. Such notice shall be served upon the employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein. Every such employee so notified, at his or her request made in writing and filed with the president, chair or secretary of the board of directors of the district within ten days after receiving such notice, shall be granted opportunity for hearing pursuant to RCW 28A.405.310 to determine whether there is sufficient cause or causes for nonrenewal of contract. PROVIDED, That any employee receiving notice of nonrenewal of contract due to an enrollment decline or loss of revenue may, in his or her request for a hearing, stipulate that initiation of the arrangements for a hearing officer as provided for by RCW 28A.405.310(4) shall occur within ten days following July 15 rather than the day that the employee submits the request for a hearing. If any such notification or opportunity for hearing is not timely given, the employee entitled thereto shall be conclusively presumed to have been reemployed by the district for the next ensuing term upon contractual terms identical with those which would have prevailed if his or her employment had actually been renewed by the board of directors for such ensuing term.

This section shall not be applicable to "provisional employees" as so designated in RCW 28A.405.220; transfer to a subordinate certificated position as that procedure is set forth in RCW 28A.405.230 shall not be construed as a nonrenewal of contract for the purposes of this section. [1990 c 33 § 390. Prior: 1983 c 83 § 1; 1983 c 56 § 11; 1975-'76 2nd ex.s. c 114 § 4; 1975 1st ex.s. c 275 § 133; 1973 c 49 § 2; 1970 ex.s. c 15 § 16; prior: 1969 ex.s. c 176 § 143; 1969 ex.s. c 34 § 12; 1969 ex.s. c 15 § 2; 1969 ex.s. c 223 § 28A.67.070; prior: 1961 c 241 § 1; 1955 c 68 § 3; prior: (i) 1909 c 97 p 307 § 5; 1897 c 118 § 55; 1891 c 127 § 14; 1890 p 369 § 37; 1886 p 18 § 47; Code 1881 § 3200; RRS § 4851. (ii) 1943 c 52 § 1, part; 1941 c 179 § 1, part;

1939 c 131 § 1, part; 1925 ex.s. c 57 § 1, part; 1919 c 89 § 3, part; 1915 c 44 § 1, part; 1909 c 97 p 285 § 2, part; 1907 c 240 § 5, part; 1903 c 104 § 17, part; 1901 c 41 § 3, part; 1897 c 118 § 40, part; 1890 p 364 § 26, part; Rem. Supp. 1943 § 4776, part. Formerly RCW 28A.67.070, 28.67.070.]

Severability—1983 c 56: See note following RCW 28A.195.010.

Savings—Severability—1975-'76 2nd ex.s. c 114: See notes following RCW 28A.400.010.

Severability—1970 ex.s. c 15: See note following RCW 28A.230.160.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

Minimum criteria for the evaluation of certificated employees, including administrators—Procedure—Scope—Penalty: RCW 28A.405.100.

School superintendent—RCW 28A.405.210 not applicable to contract renewal: RCW 28A.400.010.

28A.405.220 Conditions and contracts of employment—Nonrenewal of provisional employees—Procedure. Notwithstanding the provisions of RCW 28A.405.210, every person employed by a school district in a teaching or other nonsupervisory certificated position shall be subject to nonrenewal of employment contract as provided in this section during the first two years of employment by such district, unless the employee has previously completed at least two years of certificated employment in another school district in the state of Washington, in which case the employee shall be subject to nonrenewal of employment contract pursuant to this section during the first year of employment with the new district. Employees as defined in this section shall hereinafter be referred to as "provisional employees".

In the event the superintendent of the school district determines that the employment contract of any provisional employee should not be renewed by the district for the next ensuing term such provisional employee shall be notified thereof in writing on or before May 15th preceding the commencement of such school term, which notification shall state the reason or reasons for such determination. Such notice shall be served upon the provisional employee personally, or by certified or registered mail, or by leaving a copy of the notice at the place of his or her usual abode with some person of suitable age and discretion then resident therein. The determination of the superintendent shall be subject to the evaluation requirements of RCW 28A.405.100.

Every such provisional employee so notified, at his or her request made in writing and filed with the superintendent of the district within ten days after receiving such notice, shall be given the opportunity to meet informally with the superintendent for the purpose of requesting the superintendent to reconsider his or her decision. Such meeting shall be held no later than ten days following the receipt of such request, and the provisional employee shall be given written notice of the date, time and place of meeting at least three days prior thereto. At such meeting the provisional employee shall be given the opportunity to refute any facts upon which the superintendent's determination was based and to make any argument in support of his or her request for reconsideration.

Within ten days following the meeting with the provisional employee, the superintendent shall either reinstate the provisional employee or shall submit to the school district

board of directors for consideration at its next regular meeting a written report recommending that the employment contract of the provisional employee be nonrenewed and stating the reason or reasons therefor. A copy of such report shall be delivered to the provisional employee at least three days prior to the scheduled meeting of the board of directors. In taking action upon the recommendation of the superintendent, the board of directors shall consider any written communication which the provisional employee may file with the secretary of the board at any time prior to that meeting.

The board of directors shall notify the provisional employee in writing of its final decision within ten days following the meeting at which the superintendent's recommendation was considered. The decision of the board of directors to nonrenew the contract of a provisional employee shall be final and not subject to appeal.

This section applies to any person employed by a school district in a teaching or other nonsupervisory certificated position after June 25, 1976. This section provides the exclusive means for nonrenewing the employment contract of a provisional employee and no other provision of law shall be applicable thereto, including, without limitation, RCW 28A.405.210 and chapter 28A.645 RCW. [1992 c 141 § 103; 1990 c 33 § 391; 1975-'76 2nd ex.s. c 114 § 1. Formerly RCW 28A.67.072.]

Effective date—1992 c 141 § 103: "Section 103 of this act shall take effect July 1, 1992." [1992 c 141 § 105.]

Findings—Part headings—Severability—1992 c 141: See notes following RCW 28A.410.040.

Savings—Severability—1975-'76 2nd ex.s. c 114: See notes following RCW 28A.400.010.

28A.405.230 Conditions and contracts of employment—Transfer of administrator to subordinate certificated position—Procedure. Any certificated employee of a school district employed as an assistant superintendent, director, principal, assistant principal, coordinator, or in any other supervisory or administrative position, hereinafter in this section referred to as "administrator", shall be subject to transfer, at the expiration of the term of his or her employment contract, to any subordinate certificated position within the school district. "Subordinate certificated position" as used in this section, shall mean any administrative or nonadministrative certificated position for which the annual compensation is less than the position currently held by the administrator.

Every superintendent determining that the best interests of the school district would be served by transferring any administrator to a subordinate certificated position shall notify that administrator in writing on or before May 15th preceding the commencement of such school term of that determination, which notification shall state the reason or reasons for the transfer, and shall identify the subordinate certificated position to which the administrator will be transferred. Such notice shall be served upon the administrator personally, or by certified or registered mail, or by leaving a copy of the notice at the place of his or her usual abode with some person of suitable age and discretion then resident therein.

Every such administrator so notified, at his or her request made in writing and filed with the president or chair,

or secretary of the board of directors of the district within ten days after receiving such notice, shall be given the opportunity to meet informally with the board of directors in an executive session thereof for the purpose of requesting the board to reconsider the decision of the superintendent. Such board, upon receipt of such request, shall schedule the meeting for no later than the next regularly scheduled meeting of the board, and shall notify the administrator in writing of the date, time and place of the meeting at least three days prior thereto. At such meeting the administrator shall be given the opportunity to refute any facts upon which the determination was based and to make any argument in support of his or her request for reconsideration. The administrator and the board may invite their respective legal counsel to be present and to participate at the meeting. The board shall notify the administrator in writing of its final decision within ten days following its meeting with the administrator. No appeal to the courts shall lie from the final decision of the board of directors to transfer an administrator to a subordinate certificated position: PROVIDED, That in the case of principals such transfer shall be made at the expiration of the contract year and only during the first three consecutive school years of employment as a principal by a school district; except that if any such principal has been previously employed as a principal by another school district in the state of Washington for three or more consecutive school years the provisions of this section shall apply only to the first full school year of such employment.

This section applies to any person employed as an administrator by a school district on June 25, 1976 and to all persons so employed at any time thereafter. This section provides the exclusive means for transferring an administrator to a subordinate certificated position at the expiration of the term of his or her employment contract. [1990 c 33 § 392; 1975-'76 2nd ex.s. c 114 § 9. Formerly RCW 28A.67.073.]

Savings—Severability—1975-'76 2nd ex.s. c 114: See notes following RCW 28A.400.010.

28A.405.240 Conditions and contracts of employment—Supplemental contracts, when—Continuing contract provisions not applicable to. No certificated employee shall be required to perform duties not described in the contract unless a new or supplemental contract is made, except that in an unexpected emergency the board of directors or school district administration may require the employee to perform other reasonable duties on a temporary basis.

No supplemental contract shall be subject to the continuing contract provisions of this title. [1990 c 33 § 393; 1985 c 341 § 15; 1969 ex.s. c 283 § 2. Formerly RCW 28A.67.074, 28.67.074.]

Severability—1969 ex.s. c 283: See note following RCW 28A.150.050.

RCW 28A.405.240 not applicable to contract renewal of school superintendent: RCW 28A.400.010.

28A.405.250 Certificated employees, applicants for certificated position, not to be discriminated against—Right to inspect personnel file. The board of directors of any school district, its employees or agents shall not discrim-

inate in any way against any applicant for a certificated position or any certificated employee

(1) On account of his or her membership in any lawful organization, or

(2) For the orderly exercise during off-school hours of any rights guaranteed under the law to citizens generally, or

(3) For family relationship, except where covered by chapter 42.23 RCW.

The school district personnel file on any certificated employee in the possession of the district, its employees, or agents shall not be withheld at any time from the inspection of that employee. [1990 c 33 § 394; 1969 ex.s. c 34 § 21. Formerly RCW 28A.58.445.]

Code of ethics for municipal officers—Contract interests: Chapter 42.23 RCW.

SALARY AND COMPENSATION

28A.405.300 Adverse change in contract status of certificated employee—Determination of probable cause—Notice—Opportunity for hearing. In the event it is determined that there is probable cause or causes for a teacher, principal, supervisor, superintendent, or other certificated employee, holding a position as such with the school district, hereinafter referred to as "employee", to be discharged or otherwise adversely affected in his or her contract status, such employee shall be notified in writing of that decision, which notification shall specify the probable cause or causes for such action. Such determinations of probable cause for certificated employees, other than the superintendent, shall be made by the superintendent. Such notices shall be served upon that employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein. Every such employee so notified, at his or her request made in writing and filed with the president, chair of the board or secretary of the board of directors of the district within ten days after receiving such notice, shall be granted opportunity for a hearing pursuant to RCW 28A.405.310 to determine whether or not there is sufficient cause or causes for his or her discharge or other adverse action against his or her contract status.

In the event any such notice or opportunity for hearing is not timely given, or in the event cause for discharge or other adverse action is not established by a preponderance of the evidence at the hearing, such employee shall not be discharged or otherwise adversely affected in his or her contract status for the causes stated in the original notice for the duration of his or her contract.

If such employee does not request a hearing as provided herein, such employee may be discharged or otherwise adversely affected as provided in the notice served upon the employee.

Transfer to a subordinate certificated position as that procedure is set forth in RCW 28A.405.230 shall not be construed as a discharge or other adverse action against contract status for the purposes of this section. [1990 c 33 § 395; 1975-'76 2nd ex.s. c 114 § 2; 1973 c 49 § 1; 1969 ex.s. c 34 § 13; 1969 ex.s. c 223 § 28A.58.450. Prior: 1961 c 241 § 2. Formerly RCW 28A.58.450, 28.58.450.]

Savings—Severability—1975-'76 2nd ex.s. c 114: See notes following RCW 28A.400.010.

Minimum criteria for the evaluation of certificated employees, including administrators—Procedure—Scope—Penalty: RCW 28A.405.100.

RCW 28A.405.300 not applicable to contract renewal of school superintendent: RCW 28A.400.010.

Transfer of administrator to subordinate certificated position—Procedure: RCW 28A.405.230.

28A.405.310 Adverse change in contract status of certificated employee, including nonrenewal of contract—Hearings—Procedure. (1) Any employee receiving a notice of probable cause for discharge or adverse effect in contract status pursuant to RCW 28A.405.300, or any employee, with the exception of provisional employees as defined in RCW 28A.405.220, receiving a notice of probable cause for nonrenewal of contract pursuant to RCW 28A.405.210, shall be granted the opportunity for a hearing pursuant to this section.

(2) In any request for a hearing pursuant to RCW 28A.405.300 or 28A.405.210, the employee may request either an open or closed hearing. The hearing shall be open or closed as requested by the employee, but if the employee fails to make such a request, the hearing officer may determine whether the hearing shall be open or closed.

(3) The employee may engage counsel who shall be entitled to represent the employee at the prehearing conference held pursuant to subsection (5) of this section and at all subsequent proceedings pursuant to this section. At the hearing provided for by this section, the employee may produce such witnesses as he or she may desire.

(4) In the event that an employee requests a hearing pursuant to RCW 28A.405.300 or 28A.405.210, a hearing officer shall be appointed in the following manner: Within fifteen days following the receipt of any such request the board of directors of the district or its designee and the employee or employee's designee shall each appoint one nominee. The two nominees shall jointly appoint a hearing officer who shall be a member in good standing of the Washington state bar association or a person adhering to the arbitration standards established by the public employment relations commission and listed on its current roster of arbitrators. Should said nominees fail to agree as to who should be appointed as the hearing officer, either the board of directors or the employee, upon appropriate notice to the other party, may apply to the presiding judge of the superior court for the county in which the district is located for the appointment of such hearing officer, whereupon such presiding judge shall have the duty to appoint a hearing officer who shall, in the judgment of such presiding judge, be qualified to fairly and impartially discharge his or her duties. Nothing herein shall preclude the board of directors and the employee from stipulating as to the identity of the hearing officer in which event the foregoing procedures for the selection of the hearing officer shall be inapplicable. The district shall pay all fees and expenses of any hearing officer selected pursuant to this subsection.

(5) Within five days following the selection of a hearing officer pursuant to subsection (4) of this section, the hearing officer shall schedule a prehearing conference to be held within such five day period, unless the board of directors and employee agree on another date convenient with the

hearing officer. The employee shall be given written notice of the date, time, and place of such prehearing conference at least three days prior to the date established for such conference.

(6) The hearing officer shall preside at any prehearing conference scheduled pursuant to subsection (5) of this section and in connection therewith shall:

(a) Issue such subpoenas or subpoenas duces tecum as either party may request at that time or thereafter; and

(b) Authorize the taking of prehearing depositions at the request of either party at that time or thereafter; and

(c) Provide for such additional methods of discovery as may be authorized by the civil rules applicable in the superior courts of the state of Washington; and

(d) Establish the date for the commencement of the hearing, to be within ten days following the date of the prehearing conference, unless the employee requests a continuance, in which event the hearing officer shall give due consideration to such request.

(7) The hearing officer shall preside at any hearing and in connection therewith shall:

(a) Make rulings as to the admissibility of evidence pursuant to the rules of evidence applicable in the superior court of the state of Washington.

(b) Make other appropriate rulings of law and procedure.

(c) Within ten days following the conclusion of the hearing transmit in writing to the board and to the employee, findings of fact and conclusions of law and final decision. If the final decision is in favor of the employee, the employee shall be restored to his or her employment position and shall be awarded reasonable attorneys' fees.

(8) Any final decision by the hearing officer to nonrenew the employment contract of the employee, or to discharge the employee, or to take other action adverse to the employee's contract status, as the case may be, shall be based solely upon the cause or causes specified in the notice of probable cause to the employee and shall be established by a preponderance of the evidence at the hearing to be sufficient cause or causes for such action.

(9) All subpoenas and prehearing discovery orders shall be enforceable by and subject to the contempt and other equity powers of the superior court of the county in which the school district is located upon petition of any aggrieved party.

(10) A complete record shall be made of the hearing and all orders and rulings of the hearing officer and school board. [1990 c 33 § 396; 1987 c 375 § 1; 1977 ex.s. c 7 § 1; 1975-'76 2nd ex.s. c 114 § 5. Formerly RCW 28A.58.455.]

Severability—1977 ex.s. c 7: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 7 § 2.]

Savings—Severability—1975-'76 2nd ex.s. c 114: See notes following RCW 28A.400.010.

28A.405.320 Adverse change in contract status of certificated employee, including nonrenewal of contract—Appeal from—Notice—Service—Filing—Contents. Any teacher, principal, supervisor, superintendent, or other certificated employee, desiring to appeal from any action or

failure to act upon the part of a school board relating to the discharge or other action adversely affecting his or her contract status, or failure to renew that employee's contract for the next ensuing term, within thirty days after his or her receipt of such decision or order, may serve upon the chair of the school board and file with the clerk of the superior court in the county in which the school district is located a notice of appeal which shall set forth also in a clear and concise manner the errors complained of. [1990 c 33 § 397; 1969 ex.s. c 34 § 14; 1969 ex.s. c 223 § 28A.58.460. Prior: 1961 c 241 § 3. Formerly RCW 28A.58.460, 28.58.460.]

RCW 28A.405.320 not applicable to contract renewal of school superintendent: RCW 28A.400.010.

28A.405.330 Adverse change in contract status of certificated employee, including nonrenewal of contract—Appeal from—Certification and filing with court of transcript. The clerk of the superior court, within ten days of receipt of the notice of appeal shall notify in writing the chair of the school board of the taking of the appeal, and within twenty days thereafter the school board shall at its expense file the complete transcript of the evidence and the papers and exhibits relating to the decision complained of, all properly certified to be correct. [1990 c 33 § 398; 1969 ex.s. c 223 § 28A.58.470. Prior: 1961 c 241 § 4. Formerly RCW 28A.58.470, 28.58.470.]

RCW 28A.405.330 not applicable to contract renewal of school superintendent: RCW 28A.400.010.

28A.405.340 Adverse change in contract status of certificated employee, including nonrenewal of contract—Appeal from—Scope. Any appeal to the superior court by an employee shall be heard by the superior court without a jury. Such appeal shall be heard expeditiously. The superior court's review shall be confined to the verbatim transcript of the hearing and the papers and exhibits admitted into evidence at the hearing, except that in cases of alleged irregularities in procedure not shown in the transcript or exhibits and in cases of alleged abridgment of the employee's constitutional free speech rights, the court may take additional testimony on the alleged procedural irregularities or abridgment of free speech rights. The court shall hear oral argument and receive written briefs offered by the parties.

The court may affirm the decision of the board or hearing officer or remand the case for further proceedings; or it may reverse the decision if the substantial rights of the employee may have been prejudiced because the decision was:

- (1) In violation of constitutional provisions; or
- (2) In excess of the statutory authority or jurisdiction of the board or hearing officer; or
- (3) Made upon unlawful procedure; or
- (4) Affected by other error of law; or
- (5) Clearly erroneous in view of the entire record as submitted and the public policy contained in the act of the legislature authorizing the decision or order; or
- (6) Arbitrary or capricious. [1975-'76 2nd ex.s. c 114 § 6; 1969 ex.s. c 34 § 15; 1969 ex.s. c 223 § 28A.58.480. Prior: 1961 c 241 § 5. Formerly RCW 28A.58.480, 28.58.480.]

Savings—Severability—1975-'76 2nd ex.s. c 114: See notes following RCW 28A.400.010.

RCW 28A.405.340 not applicable to contract renewal of school superintendent: RCW 28A.400.010.

28A.405.350 Adverse change in contract status of certificated employee, including nonrenewal of contract—Appeal from—Costs, attorney’s fee and damages. If the court enters judgment for the employee, and if the court finds that the probable cause determination was made in bad faith or upon insufficient legal grounds, the court in its discretion may award to the employee a reasonable attorneys’ fee for the preparation and trial of his or her appeal, together with his or her taxable costs in the superior court. If the court enters judgment for the employee, in addition to ordering the school board to reinstate or issue a new contract to the employee, the court may award damages for loss of compensation incurred by the employee by reason of the action of the school district. [1990 c 33 § 399; 1975-’76 2nd ex.s. c 114 § 7; 1969 ex.s. c 34 § 16; 1969 ex.s. c 223 § 28A.58.490. Prior: 1961 c 241 § 6. Formerly RCW 28A.58.490, 28.58.490.]

Savings—Severability—1975-’76 2nd ex.s. c 114: See notes following RCW 28A.400.010.

RCW 28A.405.350 not applicable to contract renewal of school superintendent: RCW 28A.400.010.

28A.405.360 Adverse change in contract status of certificated employee, including nonrenewal of contract—Appellate review. Either party to the proceedings in the superior court may seek appellate review of the decision as any other civil action. [1988 c 202 § 26; 1971 c 81 § 71; 1969 ex.s. c 223 § 28A.58.500. Prior: 1961 c 241 § 7. Formerly RCW 28A.58.500, 28.58.500.]

Severability—1988 c 202: See note following RCW 2.24.050.

RCW 28A.405.360 not applicable to contract renewal of school superintendent: RCW 28A.400.010.

28A.405.370 Adverse change in contract status of certificated employee, including nonrenewal of contract—Appeal from—Other statutes not applicable. The provisions of chapter 28A.645 RCW shall not be applicable to RCW 28A.405.300 through 28A.405.360. [1990 c 33 § 400; 1969 ex.s. c 223 § 28A.58.510. Prior: 1961 c 241 § 8. Formerly RCW 28A.58.510, 28.58.510.]

RCW 28A.405.370 not applicable to contract renewal of school superintendent: RCW 28A.400.010.

28A.405.380 Adverse change in contract status of certificated employee, including nonrenewal of contract—Appeal from—Direct judicial appeal, when. In the event that an employee, with the exception of a provisional employee as defined in RCW 28A.405.220, receives a notice of probable cause pursuant to RCW 28A.405.300 or 28A.405.210 stating that by reason of a lack of sufficient funds or loss of levy election the employment contract of such employee should not be renewed for the next ensuing school term or that the same should be adversely affected, the employee may appeal any said probable cause determination directly to the superior court of the county in which the school district is located. Such appeal shall be perfected by serving upon the secretary of the school board and filing with the clerk of the superior court a notice of appeal within ten days after receiving the probable cause notice. The

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notice of appeal shall set forth in a clear and concise manner the action appealed from. The superior court shall determine whether or not there was sufficient cause for the action as specified in the probable cause notice, which cause must be proven by a preponderance of the evidence, and shall base its determination solely upon the cause or causes stated in the notice of the employee. The appeal provided in this section shall be tried as an ordinary civil action: PROVIDED, That the board of directors’ determination of priorities for the expenditure of funds shall be subject to superior court review pursuant to the standards set forth in RCW 28A.405.340: PROVIDED FURTHER, That the provisions of RCW 28A.405.350 and 28A.405.360 shall be applicable thereto. [1990 c 33 § 401; 1975-’76 2nd ex.s. c 114 § 8; 1973 c 49 § 3; 1969 ex.s. c 34 § 18. Formerly RCW 28A.58.515.]

Savings—Severability—1975-’76 2nd ex.s. c 114: See notes following RCW 28A.400.010.

RCW 28A.405.380 not applicable to contract renewal of school superintendent: RCW 28A.400.010.

HIRING AND DISCHARGE

28A.405.400 Payroll deductions authorized for employees. In addition to other deductions permitted by law, any person authorized to disburse funds in payment of salaries or wages to employees of school districts, upon written request of at least ten percent of the employees, shall make deductions as they authorize, subject to the limitations of district equipment or personnel. Any person authorized to disburse funds shall not be required to make other deductions for employees if fewer than ten percent of the employees make the request for the same payee. Moneys so deducted shall be paid or applied monthly by the school district for the purposes specified by the employee. The employer may not derive any financial benefit from such deductions. A deduction authorized before July 28, 1991, shall be subject to the law in effect at the time the deduction was authorized. [1991 c 116 § 18; 1972 ex.s. c 39 § 1. Formerly RCW 28A.67.095.]

28A.405.410 Payroll deductions authorized for certificated employees—Savings. Nothing in RCW 28A.405.400 shall be construed to annul or modify any lawful agreement heretofore entered into between any school district and any representative of its employees or other existing lawful agreements and obligations in effect on May 23, 1972. [1990 c 33 § 402; 1972 ex.s. c 39 § 2. Formerly RCW 28A.67.096.]

MISCELLANEOUS PROVISIONS

28A.405.460 Lunch period for certificated employees. All certificated employees of school districts shall be allowed a reasonable lunch period of not less than thirty continuous minutes per day during the regular school lunch periods and during which they shall have no assigned duties. [1991 c 116 § 15; 1969 ex.s. c 223 § 28A.58.275. Prior: 1965 c 18 § 1. Formerly RCW 28A.58.275, 28.58.275.]

28A.405.465 Use of noncertificated personnel to supervise in noninstructional activities. Any school district may employ noncertificated personnel to supervise school children in noninstructional activities, and in instructional activities while under the supervision of a certificated employee. [1991 c 116 § 16.]

TERMINATION OF CERTIFICATED STAFF

28A.405.470 Crimes against children—Mandatory termination of certified employees—Appeal. The school district shall immediately terminate the employment of any person whose certificate or permit authorized under chapter 28A.405 or 28A.410 RCW is subject to revocation under RCW 28A.410.090(2) upon a guilty plea or conviction of any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under chapter 9A.88 RCW, the sale or purchase of a minor child under RCW 9A.64.030, or violation of similar laws of another jurisdiction. Employment shall remain terminated unless the employee successfully prevails on appeal. This section shall only apply to employees holding a certificate or permit who have contact with children during the course of their employment. [1990 c 33 § 405; 1989 c 320 § 5. Formerly RCW 28A.58.1003.]

Severability—1989 c 320: See note following RCW 28A.410.090.

28A.405.900 Certain certificated employees exempt from chapter provisions. Certificated employees subject to the provisions of RCW 28A.405.010 through 28A.405.240, 28A.405.400 through 28A.405.410, 28A.415.250, and 28A.405.900 shall not include those certificated employees hired to replace certificated employees who have been granted sabbatical, regular, or other leave by school districts.

It is not the intention of the legislature that this section apply to any regularly hired certificated employee or that the legal or constitutional rights of such employee be limited, abridged, or abrogated. [1990 c 33 § 404; 1972 ex.s. c 142 § 3. Formerly RCW 28A.67.900.]

Chapter 28A.410 CERTIFICATION

Sections

28A.410.010	Certification—State board duty—Rules and regulations—Record check—Superintendent of public instruction as administrator.
28A.410.020	Requirements for admission to teacher preparation programs—Exemptions—Rules.
28A.410.030	Admission to practice examination for candidates for certification—Contents—Rules.
28A.410.040	Initial-level certificates.
28A.410.050	Baccalaureate and masters degree equivalency requirements for vocational instructors—Rules.
28A.410.060	Fee for certification—Disposition.
28A.410.070	Registration of certificates.
28A.410.080	School year—For certification or qualification purposes.

28A.410.090	Revocation or suspension of certificate or permit to teach—Investigation by superintendent of public instruction—Mandatory revocation for crimes against children.
28A.410.095	Violation or noncompliance—Investigatory powers of superintendent of public instruction—Court orders—Contempt.
28A.410.100	Revocation of authority to teach—Hearings and appeals.
28A.410.110	Limitation on reinstatement after revocation—Reinstatement prohibited for crimes against children.
28A.410.120	Professional certification not to be required of superintendents, deputy or assistant superintendents.

28A.410.010 Certification—State board duty—Rules and regulations—Record check—Superintendent of public instruction as administrator. The state board of education shall establish, publish, and enforce rules and regulations determining eligibility for and certification of personnel employed in the common schools of this state, including certification for emergency or temporary, substitute or provisional duty and under such certificates or permits as the board shall deem proper or as otherwise prescribed by law. The rules shall require that the initial application for certification shall require a record check of the applicant through the Washington state patrol criminal identification system and through the federal bureau of investigation at the applicant's expense. The record check shall include a fingerprint check using a complete Washington state criminal identification fingerprint card. The superintendent of public instruction may waive the record check for any applicant who has had a record check within the two years before application.

In establishing rules pertaining to the qualifications of instructors of American sign language the state board shall consult with the national association of the deaf, "sign instructors guidance network" (s.i.g.n.), and the Washington state association of the deaf for evaluation and certification of sign language instructors.

The superintendent of public instruction shall act as the administrator of any such rules and regulations and have the power to issue any certificates or permits and revoke the same in accordance with board rules and regulations. [1992 c 159 § 3; 1992 c 60 § 2. Prior: 1988 c 172 § 3; 1988 c 97 § 1; 1987 c 486 § 8; 1975-'76 2nd ex.s. c 92 § 2; 1969 ex.s. c 223 § 28A.70.005. Formerly RCW 28A.70.005.]

Reviser's note: This section was amended by 1992 c 60 § 2 and by 1992 c 159 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings—1992 c 159: See note following RCW 28A.400.303.

Severability—1988 c 97: "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." [1988 c 97 § 3.]

Severability—1975-'76 2nd ex.s. c 92: See note following RCW 28A.305.130.

28A.410.020 Requirements for admission to teacher preparation programs—Exemptions—Rules. (1) No person may be admitted to a professional teacher preparation program within Washington state without first demonstrating that he or she is competent in the basic skills required for oral and written communication and computation. This

requirement shall be waived for persons who have completed a baccalaureate degree; or graduate degree program; or who have completed two or more years of college level course work, demonstrated competency through college level course work and a written essay, and are over the age of twenty-one.

(2) After June 30, 1989, no person shall be admitted to a teacher preparation program who has a combined score of less than the state-wide median score for the prior school year scored by all persons taking tests of general achievement selected by the state board of education. The state board of education shall develop criteria and adopt rules for exemptions from this subsection.

(3) The state board of education shall adopt rules to implement this section. [1991 c 116 § 20; 1988 c 251 § 4; 1987 c 525 § 202. Formerly RCW 28A.04.122.]

Intent—1987 c 525 §§ 201-233: "The legislature intends to enhance the education of the state's youth by improving the quality of teaching. The legislature intends to establish a framework for teacher and principal preparation programs and to recognize teaching as a profession.

The legislature finds that the quality of teacher preparation programs is enhanced when a planned, sequenced approach is used that provides for the application of practice to academic course work.

The legislature supports better integration of the elements of teacher preparation programs including knowledge of subject matter, teaching methods, and actual teaching experiences.

The legislature finds that establishing: (1) A teaching internship program; (2) a post-baccalaureate program resulting in a masters degree; (3) stronger requirements for earning principal credentials; and (4) a review of the preparation standards for school principals and educational staff associates are appropriate next steps in enhancing the quality of educational personnel in Washington." [1987 c 525 § 201.]

Short title—1987 c 525 §§ 202-233: "Sections 202 through 233 of this act shall be known as the professional educator excellence act of 1987." [1987 c 525 § 234.] For codification of sections 202 through 233, [1987 c 525], see Codification Tables, Volume 0.

28A.410.030 Admission to practice examination for candidates for certification—Contents—Rules. The state board of education shall require a uniform state admission to practice examination for teacher certification candidates. Commencing August 31, 1993, teacher certification candidates completing a teacher preparation program shall be required to pass an admission to practice examination before being granted an initial certificate. The examination shall test knowledge and competence in subjects including, but not limited to, instructional skills, classroom management, and student behavior and development. The examination shall consist primarily of essay questions. The state board of education shall adopt such rules as may be necessary to implement this section. [1991 c 116 § 21; 1987 c 525 § 203. Formerly RCW 28A.70.010.]

Intent—Short title—1987 c 525 §§ 202-233: See notes following RCW 28A.410.020.

Severability—1987 c 525: See note following RCW 28A.630.100.

28A.410.040 Initial-level certificates. The state board of education shall adopt rules providing that, except as provided in this section, all individuals qualifying for an initial-level teaching certificate after August 31, 1992, shall possess a baccalaureate degree in the arts, sciences, and/or humanities and have fulfilled the requirements for teacher certification pursuant to RCW 28A.305.130 (1) and (2). However, candidates for grades preschool through eight certificates shall have fulfilled the requirements for a major

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as part of their baccalaureate degree. If the major is in early childhood education, elementary education, or special education, the candidate must have at least thirty quarter hours or twenty semester hours in one academic field. [1992 c 141 § 101; 1990 c 33 § 406. Prior: 1989 c 402 § 1; 1989 c 29 § 1; 1987 c 525 § 212. Formerly RCW 28A.70.040.]

Findings—1992 c 141: "The legislature finds that the educational needs of students when they leave the public school system has [have] increased dramatically in the past two decades. If young people are to prosper in our democracy and if our nation is to grow economically, it is imperative that the overall level of learning achieved by students be significantly increased.

To achieve this higher level of learning, the legislature finds that the state of Washington needs to develop a performance-based school system. Instead of maintaining burdensome state accountability laws and rules that dictate educational offerings, the state needs to hold schools accountable for their performance based on what their students learn.

The legislature further finds moving toward a performance-based accountability system will require repealing state laws and rules that inhibit the freedom of school boards and professional educators to carry out their work, and also will require that significantly more decisions be made at the school district and school building levels. In addition, it will be necessary to set high expectations for students, to identify what is expected of all students, and to develop a rigorous academic assessment system to determine if these expectations have been achieved.

The legislature further finds that the governor's council on education reform and funding will, by December 1992, identify broad student learning goals. Subject to decisions made by the 1993 legislature, the legislature finds that it is critical that an organization be established to continue the council's work in identifying necessary student skills and knowledge, to develop student assessment and school accountability systems, and to take other steps necessary to develop a performance-based education system.

The legislature further finds that there is a need for high quality professional development as the state implements a performance-based system. Professional development must be available to schools and school districts to maintain quality control and to assure access to proven research on effective teaching." [1992 c 141 § 1.]

Part Headings—1992 c 141: "Part headings as used in this act constitute no part of the law." [1992 c 141 § 601.]

Severability—1992 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 provision to other persons or circumstances is not affected." [1992 c 141 § 602.]

Intent—Short title—1987 c 525 §§ 202-233: See notes following RCW 28A.410.020.

Severability—1987 c 525: See note following RCW 28A.630.100.

28A.410.050 Baccalaureate and masters degree equivalency requirements for vocational instructors—Rules. The state board of education shall develop and adopt rules establishing baccalaureate and masters degree equivalency standards for vocational instructors performing instructional duties and acquiring certification after August 31, 1992. [1992 c 141 § 102; 1989 c 29 § 2; 1987 c 525 § 215. Formerly RCW 28A.70.042.]

Findings—Part headings—Severability—1992 c 141: See notes following RCW 28A.410.040.

Intent—Short title—1987 c 525 §§ 202-233: See notes following RCW 28A.410.020.

Severability—1987 c 525: See note following RCW 28A.630.100.

28A.410.060 Fee for certification—Disposition. The fee for any certificate, or any renewal thereof, issued by the authority of the state of Washington, and authorizing the holder to teach or perform other professional duties in the public schools of the state shall be not less than one dollar or such reasonable fee therefor as the state board of education by rule or regulation shall deem necessary therefor. The

fee must accompany the application and cannot be refunded unless the application is withdrawn before it is finally considered. The educational service district superintendent, or other official authorized to receive such fee, shall within thirty days transmit the same to the treasurer of the county in which the office of the educational service district superintendent is located, to be by him or her placed to the credit of said school district or educational service district: PROVIDED, That if any school district collecting fees for the certification of professional staff does not hold a professional training institute separate from the educational service district then all such moneys shall be placed to the credit of the educational service district.

Such fees shall be used solely for the purpose of precertification professional preparation, program evaluation, and professional in-service training programs in accord with rules and regulations of the state board of education herein authorized. [1990 c 33 § 407; 1975-'76 2nd ex.s. c 92 § 3; 1975-'76 2nd ex.s. c 15 § 17. Prior: 1975 1st ex.s. c 275 § 134; 1975 1st ex.s. c 192 § 1; 1969 ex.s. c 176 § 144; 1969 ex.s. c 223 § 28A.70.110; prior: 1965 c 139 § 20; 1909 c 97 p 336 § 3; RRS § 4968; prior: 1897 c 118 § 142. Formerly RCW 28A.70.110, 28.70.110, 28.70.120.]

Severability—1975-'76 2nd ex.s. c 92: See note following RCW 28A.305.130.

Severability—1975 1st ex.s. c 192: "If any provision of this amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 192 § 3.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.410.070 Registration of certificates. All certificates issued by the superintendent of public instruction shall be valid and entitle the holder thereof to employment in any school district of the state upon being registered by the school district if designated to do so by the school district, which fact shall be evidenced on the certificate in the words, "Registered for use in district," together with the date of registry, and an official signature of the person registering the same: PROVIDED, That a copy of the original certificate duly certified by the superintendent of public instruction may be used for the purpose of registry and endorsement in lieu of the original. [1983 c 56 § 12; 1975-'76 2nd ex.s. c 92 § 4; 1975 1st ex.s. c 275 § 135; 1971 c 48 § 50; 1969 ex.s. c 223 § 28A.70.130. Prior: 1909 c 97 p 338 § 11; RRS § 4976; prior: 1897 c 118 § 147. Formerly RCW 28A.70.130, 28.70.130.]

Severability—1983 c 56: See note following RCW 28A.195.010.

Severability—1975-'76 2nd ex.s. c 92: See note following RCW 28A.305.130.

Severability—1971 c 48: See note following RCW 28A.305.040.

28A.410.080 School year—For certification or qualification purposes. The school year for all matters pertaining to teacher certification or for computing experience in teaching shall consist of not fewer than one hundred eighty school days. [1969 ex.s. c 223 § 28A.01.025. Prior: 1909 c 97 p 262 § 3, part; RRS § 4687, part; prior: 1903 c 104 § 22, part. Formerly RCW 28A.01.025, 28.01.010, part.]

28A.410.090 Revocation or suspension of certificate or permit to teach—Investigation by superintendent of public instruction—Mandatory revocation for crimes against children. (1) Any certificate or permit authorized under the provisions of this chapter, chapter 28A.405 RCW, or rules and regulations promulgated thereunder may be revoked or suspended by the authority authorized to grant the same upon complaint of any school district superintendent, educational service district superintendent, or private school administrator for immorality, violation of written contract, unprofessional conduct, intemperance, or crime against the law of the state.

If the superintendent of public instruction has reasonable cause to believe that an alleged violation of this chapter or rules adopted under it has occurred, but no complaint has been filed pursuant to this chapter, and that a school district superintendent, educational service district superintendent, or private school administrator has sufficient notice of the alleged violation and opportunity to file a complaint, the superintendent of public instruction may cause an investigation to be made of the alleged violation, together with such other matters that may be disclosed in the course of the investigation related to certificated personnel.

(2) Any such certificate or permit authorized under this chapter or chapter 28A.405 RCW shall be revoked by the authority authorized to grant the certificate upon a guilty plea or the conviction of any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (excepting motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under chapter 9A.88 RCW, the sale or purchase of a minor child under RCW 9A.64.030, or violation of similar laws of another jurisdiction. The person whose certificate is in question shall be given an opportunity to be heard. Mandatory permanent revocation upon a guilty plea or the conviction of felony crimes specified under this subsection shall apply to such convictions or guilty pleas which occur after July 23, 1989. Revocation of any certificate or permit authorized under this chapter or chapter 28A.405 RCW for a guilty plea or criminal conviction occurring prior to July 23, 1989, shall be subject to the provisions of subsection (1) of this section. [1992 c 159 § 4; 1990 c 33 § 408; 1989 c 320 § 1; 1975 1st ex.s. c 275 § 137; 1974 ex.s. c 55 § 2; 1971 c 48 § 51; 1969 ex.s. c 223 § 28A.70.160. Prior: 1909 c 97 p 345 § 1; RRS § 4992; prior: 1897 c 118 § 148. Formerly RCW 28A.70.160, 28.70.160.]

Findings—1992 c 159: See note following RCW 28A.400.303.

Severability—1989 c 320: "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." [1989 c 320 § 7.]

Severability—1971 c 48: See note following RCW 28A.305.040.

Crimes against children—Notification of conviction or guilty plea of school employee: RCW 43.43.845.

28A.410.095 Violation or noncompliance—Investigatory powers of superintendent of public instruction—Court orders—Contempt. (1) The superintendent of public instruction may initiate and conduct investigations as

may be reasonably necessary to establish the existence of any alleged violations of or noncompliance with this chapter or any rules adopted under it. For the purpose of any investigation or proceeding under this chapter, the superintendent or any officer designated by the superintendent may administer oaths and affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records that the superintendent deems relevant and material to the inquiry.

(2) If any person fails to obey a subpoena or obeys a subpoena but refuses to give evidence, any court of competent jurisdiction, upon application by the superintendent, may issue to that person an order requiring him or her to appear before the court and to show cause why he or she should not be compelled to obey the subpoena, and give evidence material to the matter under investigation. The failure to obey an order of the court may be punishable as contempt. [1992 c 159 § 5.]

Findings—1992 c 159: See note following RCW 28A.400.303.

28A.410.100 Revocation of authority to teach—Hearings and appeals. Any teacher whose certificate to teach has been questioned under RCW 28A.410.090 shall have a right to be heard by the issuing authority before his or her certificate is revoked. Any teacher whose certificate to teach has been revoked shall have a right of appeal to the state board of education if notice of appeal is given by written affidavit to the board within thirty days after the certificate is revoked.

An appeal to the state board of education within the time specified shall operate as a stay of revocation proceedings until the next regular or special meeting of said board and until the board's decision has been rendered. [1992 c 159 § 6; 1990 c 33 § 409; 1975 1st ex.s. c 275 § 138; 1971 c 48 § 52; 1969 ex.s. c 223 § 28A.70.170. Prior: 1909 c 97 p 346 § 3; RRS § 4994. Formerly RCW 28A.70.170, 28.70.170.]

Findings—1992 c 159: See note following RCW 28A.400.303.

Severability—1971 c 48: See note following RCW 28A.305.040.

28A.410.110 Limitation on reinstatement after revocation—Reinstatement prohibited for crimes against children. In case any certificate or permit authorized under this chapter or chapter 28A.405 RCW is revoked, the holder shall not be eligible to receive another certificate or permit for a period of twelve months after the date of revocation. However, if the certificate or permit authorized under this chapter or chapter 28A.405 RCW was revoked because of a guilty plea or the conviction of a felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under chapter 9A.88 RCW, the sale or purchase of a minor child under RCW 9A.64.030, or violation of similar laws of another jurisdiction, the certificate or permit shall not be reinstated. [1990 c 33 § 410; 1989 c 320 § 2; 1969

ex.s. c 223 § 28A.70.180. Prior: 1909 c 97 p 346 § 2; RRS § 4993. Formerly RCW 28A.70.180, 28.70.180.]

Severability—1989 c 320: See note following RCW 28A.410.090.

28A.410.120 Professional certification not to be required of superintendents, deputy or assistant superintendents. Notwithstanding any other provision of this title, the state board of education or superintendent of public instruction shall not require any professional certification or other qualifications of any person elected superintendent of a local school district by that district's board of directors, or any person hired in any manner to fill a position designated as, or which is, in fact, deputy superintendent, or assistant superintendent. [1990 c 33 § 411; 1975 1st ex.s. c 254 § 3. Formerly RCW 28A.02.260.]

Severability—1975 1st ex.s. c 254: "If any provision of this 1975 amendatory act, or its application to any person or circumstances is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 254 § 4.]

Chapter 28A.415

TEACHERS' INSTITUTES, WORKSHOPS, AND OTHER IN-SERVICE TRAINING

Sections

28A.415.010	Center for improvement of teaching—Improvement of teaching coordinating council—Teachers' institutes and workshops.
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28A.415.205	Minority teacher recruitment program.
28A.415.250	Teacher assistance program—Provision for mentor teachers.

28A.415.010 Center for improvement of teaching—Improvement of teaching coordinating council—Teachers' institutes and workshops. It shall be the responsibility of each educational service district board to establish a center for the improvement of teaching. The center shall administer, coordinate, and act as fiscal agent for such programs related to the recruitment and training of certificated and classified K-12 education personnel as may be delegated to the center by the superintendent of public instruction under RCW 28A.310.470, or the state board of education under RCW 28A.310.480. To assist in these activities, each educational service district board shall

establish an improvement of teaching coordinating council to include, at a minimum, representatives as specified in RCW 28A.415.040. An existing in-service training task force, established pursuant to RCW 28A.415.040, may serve as the improvement of teaching coordinating council. The educational service district board shall ensure coordination of programs established pursuant to RCW 28A.415.030, 28A.410.060, and 28A.415.250.

The educational service district board may arrange each year for the holding of one or more teachers' institutes and/or workshops for professional staff preparation and in-service training in such manner and at such time as the board believes will be of benefit to the teachers and other professional staff of school districts within the educational service district and shall comply with rules and regulations of the state board of education pursuant to RCW 28A.410.060 or the superintendent of public instruction or state board of education pursuant to RCW 28A.415.250. The board may provide such additional means of teacher and other professional staff preparation and in-service training as it may deem necessary or appropriate and there shall be a proper charge against the educational service district general expense fund when approved by the educational service district board.

Educational service district boards of contiguous educational service districts, by mutual arrangements, may hold joint institutes and/or workshops, the expenses to be shared in proportion to the numbers of certificated personnel as shown by the last annual reports of the educational service districts holding such joint institutes or workshops.

In local school districts employing more than one hundred teachers and other professional staff, the school district superintendent may hold a teachers' institute of one or more days in such district, said institute when so held by the school district superintendent to be in all respects governed by the provisions of this title and state board of education rules and regulations relating to teachers' institutes held by educational service district superintendents. [1991 c 285 § 1; 1990 c 33 § 414; 1975-'76 2nd ex.s. c 15 § 18. Prior: 1975 1st ex.s. c 275 § 139; 1975 1st ex.s. c 192 § 2; 1971 ex.s. c 282 § 31; 1969 ex.s. c 176 § 146; 1969 ex.s. c 223 § 28A.71.100; prior: 1965 c 139 § 21. Formerly RCW 28A.71.100, 28.71.100.]

Severability—1975 1st ex.s. c 192: See note following RCW 28A.410.060.

Severability—1971 ex.s. c 282: See note following RCW 28A.310.010.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

Transitional bilingual instruction program—In-service training: RCW 28A.180.040(4).

28A.415.020 Credit on salary schedule for approved in-service training and continuing education. (1) Certificated personnel shall receive for each ten clock hours of approved in-service training attended the equivalent of a one credit college quarter course on the salary schedule developed by the legislative evaluation and accountability program committee.

(2) Certificated personnel shall receive for each ten clock hours of approved continuing education earned, as continuing education is defined by rule adopted by the state

board of education, the equivalent of a one credit college quarter course on the salary schedule developed by the legislative evaluation and accountability program committee.

(3) An approved in-service training program shall be a program approved by a school district board of directors, which meet standards adopted by the state board of education, and the development of said program has been participated in by an in-service training task force whose membership is the same as provided under RCW 28A.415.040, or a program offered by an education agency approved to provide in-service for the purposes of continuing education as provided for under rules adopted by the state board of education, or both.

(4) Clock hours eligible for application to the salary schedule developed by the legislative evaluation and accountability program committee as described in subsections (1) and (2) of this section, shall be those hours acquired after August 31, 1987. [1990 c 33 § 415; 1987 c 519 § 1. Formerly RCW 28A.71.110.]

28A.415.030 In-Service Training Act of 1977—Purpose. In order to provide for the improvement of the instructional process in the public schools and maintain and improve the skills of public school certificated and classified personnel, there is hereby adopted an act to be known as the "In-Service Training Act of 1977". [1977 ex.s. c 189 § 1. Formerly RCW 28A.71.200.]

Severability—1977 ex.s. c 189: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 189 § 4.]

28A.415.040 In-Service Training Act of 1977—Administration of funds—Rules—Requirements for local districts—In-service training task force. The superintendent of public instruction is hereby empowered to administer funds now or hereafter appropriated for the conduct of in-service training programs for public school certificated and classified personnel and to supervise the conduct of such programs. The superintendent of public instruction shall adopt rules in accordance with chapter 34.05 RCW that provide for the allocation of such funds to public school district or educational service district applicants on such conditions and for such training programs as he or she deems to be in the best interest of the public school system: PROVIDED, That each district requesting such funds shall have:

(1) Conducted a district needs assessment, including plans developed at the building level, to be reviewed and updated at least every two years, of certificated and classified personnel to determine identified strengths and weakness of personnel that would be strengthened by such in-service training program;

(2) Demonstrate that the plans are consistent with the goals of basic education;

(3) Established an in-service training task force and demonstrated to the superintendent of public instruction that the task force has participated in identifying in-service training needs and goals; and

(4) Demonstrated to the superintendent of public instruction its intention to implement the recommendations of the needs assessment and thereafter the progress it has

made in providing in-service training as identified in the needs assessment.

The task force required by this section shall be composed of representatives from the ranks of administrators, building principals, teachers, classified and support personnel employed by the applicant school district or educational service district, from the public, and from an institution(s) of higher education, in such numbers as shall be established by the school district board of directors or educational service district board of directors. [1987 c 525 § 301; 1985 c 214 § 1; 1979 c 149 § 10; 1977 ex.s. c 189 § 2. Formerly RCW 28A.71.210.]

Severability—1987 c 525: See note following RCW 28A.630.100.

Severability—1979 c 149: "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 c 149 § 11.]

Severability—1977 ex.s. c 189: See note following RCW 28A.415.030.

28A.415.050 In-service training programs—Instruction on teaching skills to children to resist and report abuse. The superintendent of public instruction, the educational service districts, and local school districts are encouraged to devise programs of in-service training for public school certificated and classified personnel who come into contact with students in grades kindergarten through twelve for the purpose of providing instruction on how to effectively teach children the skills to resist and report attempts to abuse them. [1985 c 419 § 2. Formerly RCW 28A.71.220.]

Severability—1985 c 419: See note following RCW 28A.305.230.

28A.415.060 Credits for educational staff associates to fulfill continuing education requirements. The state board of education rules for continuing education shall provide that educational staff associates may use credits or clock hours that satisfy the continuing education requirements for their state professional licensure, if any, to fulfill the continuing education requirements established by the state board of education. [1991 c 155 § 1.]

28A.415.100 Student teaching centers—Legislative recognition—Intent. (1) The legislature recognizes that:

(a) Strong teacher preparation programs are vital to the success of the state's entire education system;

(b) Clinical field experiences, particularly student teaching, are critical to the developmental preparation of teacher candidates and to the success of teacher preparation programs;

(c) Schools, school districts, educational service districts, and institutions of higher education benefit mutually from cooperative relationships that provide teacher candidates with appropriate, necessary, and successful student teaching experiences that establish continuity between the theory and practice of teaching;

(d) Positive student teaching experiences result from the careful match between cooperating teachers and student teachers;

(e) Teacher candidates should have student teaching opportunities and other field experiences that are reflective

of the diversity existing among schools and school districts state-wide; and

(f) School districts state-wide should have access to student teachers.

(2) Therefore, in support of quality, professional, research-based training of prospective teachers, it is the intent of the legislature to continue its support of evolving partnerships among schools, school districts, educational service districts, community colleges, and colleges and universities, that are:

(a) Benefiting the teaching profession;

(b) Enhancing the ability of all new teachers to assume initial teaching responsibilities with greater confidence and a higher level of training;

(c) Providing important and positive mentoring opportunities for experienced teachers; and

(d) Strengthening cooperation and communication between the precollegiate and collegiate sectors of the state education system. [1991 c 258 § 1.]

28A.415.105 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 28A.415.110 through 28A.415.140.

(1) "Cooperating organizations" means that at least one school district, one college or university, and one educational service district are involved jointly with the development of a student teaching center.

(2) "Cooperating teacher" means a teacher who holds a continuing certificate and supervises and coaches a student teacher.

(3) "Field experience" means opportunities for observation, tutoring, microteaching, extended practicums, and clinical and laboratory experiences which do not fall within the meaning of student teaching.

(4) "School setting" means a classroom in a public, common school in the state of Washington.

(5) "Student teacher" means a candidate for initial teacher certification who is in a state board of education-approved, or regionally or nationally accredited teacher preparation program in a school setting as part of the field-based component of their preparation program.

(6) "Student teaching" means the full quarter or semester in a school setting during which the student teacher observes the cooperating teacher, participates in instructional activities, and assumes both part-time and full-time teaching responsibilities under the supervision of the cooperating teacher.

(7) "Student teaching center" means the program established to provide student teachers in a geographic region of the state with special support and training as part of their teacher preparation program.

(8) "Supervisor or university supervisor" means the regular or adjunct faculty member, or college or university-approved designee, who assists and supervises the work of cooperating teachers and student teachers. [1991 c 258 § 2.]

28A.415.110 Cooperating teachers. (1) Cooperating teachers shall provide a source of continuing and sustained assistance, coaching, and support for student teachers, and may participate with supervisors in evaluating student teachers, and shall submit recommendations to the institu-

tions of higher education respecting the competency of the student teacher. Cooperating teachers shall collaborate with their school principals respecting the support, training, and assistance they provide to student teachers.

(2) All student teachers from an institution of higher education whose preparation program has been approved by the state board of education, or has been regionally or nationally accredited, shall be provided a cooperating teacher.

(3) Cooperating teachers will be appointed by school districts in a joint selection process with the institutions of higher education. [1991 c 258 § 3.]

28A.415.115 Salary stipends for cooperating teachers. Salary stipends for cooperating teachers shall be paid through supplemental contracts under RCW 28A.400.200(4) and as provided in the state operating appropriations act. [1991 c 258 § 4.]

28A.415.120 Application of RCW 28A.415.110 and 28A.415.115. The provisions of RCW 28A.415.110 and 28A.415.115 shall apply to RCW 28A.415.125 through 28A.415.140. [1991 c 258 § 5.]

28A.415.125 Network of student teaching centers. The state board of education, from appropriated funds, shall establish a network of student teaching centers to support the continuing development of the field-based component of teacher preparation programs. The purpose of the training centers is to:

(1) Expand opportunities for student teacher placements in school districts state-wide, with an emphasis on those populations and locations that are unserved or underserved;

(2) Provide cooperating teachers for all student teachers during their student internship for up to two academic quarters;

(3) Enhance the student teaching component of teacher preparation programs, including a placement of student teachers in special education and multi-ethnic school settings; and

(4) Expand access to each other and opportunities for collaboration in teacher education between colleges and universities and school districts. [1991 c 258 § 6.]

28A.415.130 Allocation of funds for student teaching centers. Funds for the student teaching centers shall be allocated by the superintendent of public instruction among the educational service district regions on the basis of student teaching placements. The fiscal agent for each center shall be either an educational service district or a state institution of higher education. Prospective fiscal agents shall document to the state board of education the following information:

(1) The existing or proposed center was developed jointly through a process including participation by at least one school district, one college or university, and one educational service district;

(2) Primary administration for each center shall be the responsibility of one or more of the cooperating organizations;

(3) Assurance that the training center program provides appropriate and necessary training in observation, supervision, and assistance skills and techniques for:

(a) Cooperating teachers;

(b) Other school building personnel; and

(c) School district employees. [1991 c 258 § 7.]

28A.415.135 Alternative means of teacher placement. The student teaching centers shall be an alternative means of placing teachers into school districts throughout the state. Nothing in RCW 28A.415.100 through 28A.415.140 or 28A.415.250 precludes a higher education institution that is not a participant in a training center from placing student teachers into a district that may be participating formally with other institutions in a student teaching center program, or placing student teachers into districts pursuant to an agreement between the institution and district. [1991 c 258 § 8.]

28A.415.140 Field experiences. Field experiences may be provided through a student teaching center. The cost of providing such experiences and opportunities shall be the sole responsibility of the participants cooperating in the operation of the center. [1991 c 258 § 9.]

28A.415.145 Rules. The state board of education and the superintendent of public instruction shall adopt rules as necessary under chapter 34.05 RCW to carry out the purposes of RCW 28A.415.100 through 28A.415.140. [1991 c 258 § 10.]

28A.415.200 Minority teacher recruitment program—Intent. The legislature finds that it is important to have a teaching force that reflects the rich diversity of the students served in the public schools. The legislature further finds that certain groups, as characterized by ethnic background, are traditionally underrepresented in the teaching profession in the state of Washington and that the ethnic diversity of the student population in the state of Washington is increasing. The legislature intends to increase the number of people from underrepresented groups entering our teaching force. [1989 c 146 § 1. Formerly RCW 28A.305.260, 28A.67.250.]

28A.415.205 Minority teacher recruitment program.

(1) The Washington state minority teacher recruitment program is established. The program shall be administered by the state board of education. The state board of education shall consult with the higher education coordinating board, representatives of institutions of higher education, education organizations having an interest in teacher recruitment issues, the superintendent of public instruction, the state board for community and technical colleges, the department of employment security, and the work force training and education coordinating board. The program shall be designed to recruit future teachers from students in the targeted groups who are in the ninth through twelfth grades and from adults in the targeted groups who have entered other occupations.

(2) The program shall include the following:

(a) Encouraging students in targeted groups in grades nine through twelve to acquire the academic and related skills necessary to prepare for the study of teaching at an institution of higher education;

(b) Promoting teaching career opportunities to develop an awareness of opportunities in the education profession;

(c) Providing opportunities for students to experience the application of regular high school course work to activities related to a teaching career; and

(d) Providing for increased cooperation among institutions of higher education including community colleges, the superintendent of public instruction, the state board of education, and local school districts in working toward the goals of the program. [1991 c 238 § 75; 1989 c 146 § 2. Formerly RCW 28A.305.270, 28A.67.260.]

Effective dates—Severability—1991 c 238: See RCW 28B.50.917 and 28B.50.918.

28A.415.250 Teacher assistance program—Provision for mentor teachers. The superintendent of public instruction shall adopt rules to establish and operate a teacher assistance program. For the purposes of this section, the terms "mentor teachers," "beginning teachers," and "experienced teachers" may include any person possessing any one of the various certificates issued by the superintendent of public instruction under RCW 28A.410.010. The program shall provide for:

(1) Assistance by mentor teachers who will provide a source of continuing and sustained support to beginning teachers, or experienced teachers, or both, both in and outside the classroom. A mentor teacher may not be involved in evaluations under RCW 28A.405.100 of a teacher who receives assistance from said mentor teacher under the teacher assistance program established under this section. The mentor teachers shall also periodically inform their principals respecting the contents of training sessions and other program activities;

(2) Stipends for mentor teachers and beginning teachers which shall not be deemed compensation for the purposes of salary lid compliance under *RCW 28A.58.095: PROVIDED, That stipends shall not be subject to the continuing contract provisions of this title;

(3) Workshops for the training of mentor and beginning teachers;

(4) The use of substitutes to give mentor teachers, beginning teachers, and experienced teachers opportunities to jointly observe and evaluate teaching situations and to give mentor teachers opportunities to observe and assist beginning and experienced teachers in the classroom;

(5) Mentor teachers who are superior teachers based on their evaluations, pursuant to RCW 28A.405.010 through 28A.405.240, and who hold valid continuing certificates;

(6) Mentor teachers shall be selected by the district. If a bargaining unit, certified pursuant to RCW 41.59.090 exists within the district, classroom teachers representing the bargaining unit shall participate in the mentor teacher selection process; and

(7) Periodic consultation by the superintendent of public instruction or the superintendent's designee with representatives of educational organizations and associations, including educational service districts and public and private institutions of higher education, for the purposes of improving

communication and cooperation and program review. [1991 c 116 § 19; 1990 c 33 § 403; 1987 c 507 § 1; 1985 c 399 § 1. Formerly RCW 28A.405.450, 28A.67.240.]

***Reviser's note:** RCW 28A.58.095 was repealed by 1987 1st ex.s. c 2 § 211.

Effective date—1987 c 507: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 15, 1987." [1987 c 507 § 4.]

Chapter 28A.500

LOCAL EFFORT ASSISTANCE

Sections

28A.500.010 Local assistance funds—Definitions—Allocation.

28A.500.010 Local assistance funds—Definitions—Allocation. (1) Commencing with taxes assessed in 1988 to be collected in calendar year 1989 and thereafter, in addition to a school district's other general fund allocations, each eligible district shall be provided local effort assistance funds as provided in this section. Such funds are not part of the district's basic education allocation. For the first distribution of local effort assistance funds provided under this section in calendar year 1989, state funds may be prorated according to the formula in this section.

(2) (a) "Prior tax collection year" shall mean the year immediately preceding the year in which the local effort assistance shall be allocated.

(b) The "state-wide average ten percent levy rate" shall mean ten percent of the total levy bases as defined in RCW 84.52.0531(4) summed for all school districts, and divided by the total assessed valuation for excess levy purposes in the prior tax collection year for all districts as adjusted to one hundred percent by the county indicated ratio established in RCW 84.48.075.

(c) The "ten percent levy rate" of a district shall mean:

(i) Ten percent of the district's levy base as defined in RCW 84.52.0531(4), plus one-half of any amount computed under RCW 84.52.0531(3)(b) in the case of nonhigh school districts; divided by

(ii) The district's assessed valuation for excess levy purposes for the prior tax collection year as adjusted to one hundred percent by the county indicated ratio.

(d) "Eligible districts" shall mean those districts with a ten percent levy rate which exceeds the state-wide average ten percent levy rate.

(3) Allocation of state matching funds to eligible districts for local effort assistance shall be determined as follows:

(a) Funds raised by the district through maintenance and operation levies during that tax collection year shall be matched with state funds using the following ratio of state funds to levy funds: (i) The difference between the district's ten percent levy rate and the state-wide average ten percent levy rate; to (ii) the state-wide average ten percent levy rate.

(b) The maximum amount of state matching funds for which a district may be eligible in any tax collection year shall be ten percent of the district's levy base as defined in RCW 84.52.0531(4), multiplied by the following percentage:

(i) The difference between the district's ten percent levy rate

and the state-wide average ten percent levy rate; divided by (ii) the district's ten percent levy rate.

(4)(a) Through tax collection year 1992, fifty-five percent of local effort assistance funds shall be distributed to qualifying districts during the applicable tax collection year on or before June 30 and forty-five percent shall be distributed on or before December 31 of any year.

(b) In tax collection year 1993 and thereafter, local effort assistance funds shall be distributed to qualifying districts as follows:

- (i) Thirty percent in April;
- (ii) Twenty-three percent in May;
- (iii) Two percent in June;
- (iv) Twenty-six percent in October;
- (v) Seventeen percent in November; and
- (vi) Two percent in December. [1992 c 49 § 2; 1987 1st ex.s. c 2 § 102. Formerly RCW 28A.41.155.]

Intent—Severability—Effective date—1987 1st ex.s. c 2: See notes following RCW 84.52.0531.

Chapter 28A.505 SCHOOL DISTRICTS BUDGETS

Sections

28A.505.010	Definitions.
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28A.505.150	Budgeted expenditures as appropriations—Interim expenditures—Transfer between budget classes—Liability for nonbudgeted expenditures.
28A.505.160	Appropriations lapse at end of fiscal year—Exception.
28A.505.170	First class school districts—Emergency or additional appropriation resolutions—Procedure.
28A.505.180	Second class school districts—Additional appropriation resolutions—Procedure.
28A.505.200	Repayment of federal moneys—Federal disallowance determination.

28A.505.010 Definitions. The following terms when used in this chapter shall have the following meanings, unless where used the context thereof shall clearly indicate to the contrary:

(1) "Revenue" means an addition to assets of a fund of a school district during a fiscal period that is available to finance the fund's expenditures during the fiscal period. Revenue does not accompany the increase of liabilities or

represent refunds of previous disbursements. Revenue may be in the form of cash or in the form of noncash assets such as donated commodities. Revenue for accrual basis expenditure funds is limited to amounts received in cash or noncash donations plus or minus adjustments for revenue accruals.

(2) "Accrual basis expenditures" mean expenditures incurred during a given fiscal period, whether paid or unpaid.

(3) "Cash basis expenditures" mean actual disbursements during a given fiscal period except for debt service, regardless of when liabilities are incurred, or the period of incurrence of expenditures.

(4) "Cash basis revenue" means actual receipt of revenue not adjusted for revenue accruals.

(5) "Revenue accruals" means those revenues anticipated to be received in cash after the close of the fiscal period that represent reimbursement for expenditures incurred by the end of the fiscal period.

(6) "Appropriation" means the maximum authorization during a given fiscal period to incur expenditures.

(7) "Disbursements" mean payments in cash, including but not limited to issuance of warrants. [1983 c 59 § 1; 1975-'76 2nd ex.s. c 118 § 1. Formerly RCW 28A.65.400.]

Application—Effective date—1983 c 59: "This act shall apply to school district budgets, financial statements, and bookkeeping and accounting procedures, practices, and principles beginning with fiscal year 1983-'84 starting September 1, 1983. This act shall take effect September 1, 1983." [1983 c 59 § 19.]

Severability—1983 c 59: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 c 59 § 20.]

Severability—1975-'76 2nd ex.s. c 118: "If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975-'76 2nd ex.s. c 118 § 37.]

28A.505.020 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.505.010(1) for all funds: PROVIDED, That school districts that elect the cash basis of expenditure recognition under subsection (2) of this section shall recognize revenue on the cash basis.

(2) Recognition of expenditures for all funds shall be on the accrual basis: PROVIDED, That school districts with under one thousand full time equivalent students for the preceding fiscal year may make a uniform election for all funds, except debt service funds, to be on the cash basis of expenditure recognition. Notification of such election shall be given to the state superintendent of public instruction in the budget of the school district and shall remain in effect for one full fiscal year. [1990 c 33 § 416; 1983 c 59 § 2; 1980 c 18 § 1; 1975-'76 2nd ex.s. c 118 § 2. Formerly RCW 28A.65.405.]

Application—Effective date—Severability—1983 c 59: See notes following RCW 28A.505.010.

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

28A.505.030 District fiscal year. Beginning September 1, 1977 the fiscal year for all school districts shall be September 1 through August 31. [1975-'76 2nd ex.s. c 118 § 3. Formerly RCW 28A.65.410.]

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

28A.505.040 Budget—When prepared—Contents.

On or before the tenth day of July in each year, all school districts shall prepare their budget for the ensuing fiscal year. The budget shall set forth the complete financial plan of the district for the ensuing fiscal year. [1975-'76 2nd ex.s. c 118 § 4. Formerly RCW 28A.65.415.]

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

28A.505.050 Budget—Notice of completion and of hearing—Copies for the public—ESD review, when.

Upon completion of their budgets as provided in RCW 28A.505.040, every school district shall publish a notice stating that the district has completed the budget and placed the same on file in the school district administration office, that a copy thereof will be furnished any person who will call upon the district for it, and that the board of directors will meet for the purpose of fixing and adopting the budget of the district for the ensuing fiscal year. Such notice shall designate the date, time, and place of said meeting which shall occur no later than the thirty-first day of August for first class school districts, and the first day of August for second class school districts. The notice shall also state that any person may appear thereat and be heard for or against any part of such budget. Said notice shall be published at least once each week for two consecutive weeks in a newspaper of general circulation in the district, or, if there be none, in a newspaper of general circulation in the county or counties in which such district is a part. The last notice shall be published no later than seven days immediately prior to the hearing.

The district shall provide a sufficient number of copies of the budget to meet the reasonable demands of the public not later than July 20th in the first class school districts, and not later than July 15th in second class school districts. School districts shall submit one copy of their budget to their educational service districts for review and comment by these dates. [1990 c 33 § 417; 1983 c 59 § 3; 1975-'76 2nd ex.s. c 118 § 5. Formerly RCW 28A.65.420.]

Application—Effective date—Severability—1983 c 59: See notes following RCW 28A.505.010.

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

28A.505.060 Budget—Hearing and adoption of—Copies filed with ESD's. On the date given in said notice as provided in RCW 28A.505.050 the school district board of directors shall meet at the time and place designated. Any person may appear thereat and be heard for or against any part of such budget. Such hearing may be continued not to exceed a total of two days: PROVIDED, That the budget must be adopted no later than August 31st in first class

school districts, and not later than August 1st in second class school districts.

Upon conclusion of the hearing, the board of directors shall fix and determine the appropriation from each fund contained in the budget separately, and shall by resolution adopt the budget and the appropriations as so finally determined, and enter the same in the official minutes of the board: PROVIDED, That first class school districts shall file copies of their adopted budget with their educational service district no later than September 3rd, and second class school districts shall forward copies of their adopted budget to their educational service district no later than August 3rd for review, alteration and approval as provided for in RCW 28A.505.070 by the budget review committee. [1990 c 33 § 418; 1983 c 59 § 4; 1975-'76 2nd ex.s. c 118 § 6. Formerly RCW 28A.65.425.]

Application—Effective date—Severability—1983 c 59: See notes following RCW 28A.505.010.

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

28A.505.070 Budget review committee—Members—

Review of budget, limitations. The budget review committee shall fix and approve the amount of the appropriation from each fund of the budget of second class districts not later than August 31st. No budget review committee shall knowingly approve any budget or appropriation that is in violation of this chapter or rules and regulations adopted by the superintendent of public instruction in accordance with RCW 28A.505.140(1). A copy of said budget shall be returned to the local school districts no later than September 10th.

Members of the budget review committee as referred to in this section shall consist of the educational service district superintendent or a representative thereof, a member of the local school district board of directors or a representative thereof, and a representative of the superintendent of public instruction. [1990 c 33 § 419; 1975-'76 2nd ex.s. c 118 § 7. Formerly RCW 28A.65.430.]

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

28A.505.080 Budget—Disposition of copies. Copies of the budgets for all local school districts shall be filed with the superintendent of public instruction no later than September 10th. One copy will be retained by the educational service district. [1984 c 128 § 8; 1983 c 59 § 5; 1975-'76 2nd ex.s. c 118 § 8. Formerly RCW 28A.65.435.]

Application—Effective date—Severability—1983 c 59: See notes following RCW 28A.505.010.

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

28A.505.090 Budget—Format, classifications, mandatory. Every school district budget shall be prepared, submitted and adopted in the format prescribed by the office of the superintendent of public instruction. The budget classifications contained in said format shall be in accordance with the accounting manual for public school districts, published by the office of the superintendent of public instruction and the office of the state auditor. Budgets prepared and adopted in a format other than that prescribed

by the office of the superintendent of public instruction shall not be official and will have no legal effect. [1983 c 59 § 6; 1975-'76 2nd ex.s. c 118 § 9. Formerly RCW 28A.65.440.]

Application—Effective date—Severability—1983 c 59: See notes following RCW 28A.505.010.

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

28A.505.100 Budget—Contents—Display of salaries.

The budget shall set forth the estimated revenues for the ensuing fiscal year, the estimated revenues for the fiscal year current at the time of budget preparation, the actual revenues for the last completed fiscal year, and the reserved and unreserved fund balances for each year. The estimated revenues from all sources for the ensuing fiscal year shall not include any revenue not anticipated to be available during that fiscal year: PROVIDED, That school districts, pursuant to RCW 28A.505.110 can be granted permission by the superintendent of public instruction to include as revenues in their budgets, receivables collectible in future fiscal years.

The budget shall set forth by detailed items or classes the estimated expenditures for the ensuing fiscal year, the estimated expenditures for the fiscal year current at the time of budget preparation, and the actual expenditures for the last completed fiscal year. Total salary amounts, full-time equivalents, and the high, low, and average annual salaries, shall be displayed by job classification within each budget classification. If individual salaries within each job classification are not displayed, districts shall provide the individual salaries together with the title or position of the recipient and the total amounts of salary under each budget class upon request. Salary schedules shall be displayed. In districts where negotiations have not been completed, the district may budget the salaries at the current year's rate and restrict fund balance for the amount of anticipated increase in salaries, so long as an explanation shall be attached to the budget on such restriction of fund balance. [1990 c 33 § 420; 1983 c 59 § 7; 1975-'76 2nd ex.s. c 118 § 10. Formerly RCW 28A.65.445.]

Application—Effective date—Severability—1983 c 59: See notes following RCW 28A.505.010.

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

28A.505.110 Budget—Including receivables collectible in future years—Limitations. When a school district board is unable to prepare a budget or budget extension pursuant to RCW 28A.505.170 or 28A.505.180 in which the estimated revenues for the budgeted fiscal year plus the estimated fund balance at the beginning of the budgeted fiscal year less the ending reserved fund balance for the budgeted fiscal year do not at least equal the estimated expenditures for the budgeted fiscal year, the school district board may deliver a petition in writing, at least twenty days before the budget or budget extension is scheduled for adoption, to the superintendent of public instruction requesting permission to include receivables collectible in future years, in order to balance the budget. If such permission is granted, it shall be in writing, and it shall contain conditions, binding on the district, designed to improve the district's

financial condition. Any budget or appropriation adopted by the board of directors without written permission from the superintendent of public instruction that contains estimated expenditures in excess of the total of estimated revenue for the budgeted fiscal year plus estimated fund balance at the beginning of the budgeted fiscal year less ending reserve fund balance for the budgeted fiscal year shall be null and void and shall not be considered an appropriation. [1990 c 33 § 421; 1983 c 59 § 8; 1975-'76 2nd ex.s. c 118 § 11. Formerly RCW 28A.65.450.]

Application—Effective date—Severability—1983 c 59: See notes following RCW 28A.505.010.

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

28A.505.120 Withholding state funds upon district noncompliance—Notice of. If a local school district fails to comply with any binding restrictions issued by the superintendent of public instruction, the allocation of state funds for support of the local school district may be withheld, pending an investigation of the reason for such non-compliance by the office of the superintendent of public instruction. Written notice of the intent to withhold state funds, with reasons stated for this action, shall be made to the school district by the office of the superintendent of public instruction before any portion of the state allocation is withheld. [1975-'76 2nd ex.s. c 118 § 12. Formerly RCW 28A.65.455.]

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

28A.505.130 Budget—Requirements for balancing estimated expenditures. For each fund contained in the school district budget the estimated expenditures for the budgeted fiscal year must not be greater than the total of the estimated revenues for the budgeted fiscal year, the estimated fund balance at the beginning of the budgeted fiscal year less the estimated reserve fund balance at the end of the budgeted fiscal year, and the projected revenue from receivables collectible on future years as approved by the superintendent of public instruction for inclusion in the budget.

The proceeds of any interfund loan must not be used to balance the budget of the borrowing fund. [1983 c 59 § 9; 1975-'76 2nd ex.s. c 118 § 13. Formerly RCW 28A.65.460.]

Application—Effective date—Severability—1983 c 59: See notes following RCW 28A.505.010.

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

28A.505.140 Rules and regulations for budgetary procedures—Review when superintendent determines budget irregularity—Revised budget, state board's financial plan until adoption. (1) Notwithstanding any other provision of law, the superintendent of public instruction is hereby directed to promulgate such rules and regulations as will insure proper budgetary procedures and practices, including monthly financial statements consistent with the provisions of RCW 43.09.200, and this chapter.

(2) If the superintendent of public instruction determines upon a review of the budget of any district that said budget

does not comply with the budget procedures established by this chapter or by rules and regulations promulgated by the superintendent of public instruction, or the provisions of RCW 43.09.200, the superintendent shall give written notice of this determination to the board of directors of the local school district.

(3) The local school district, notwithstanding any other provision of law, shall, within thirty days from the date the superintendent of public instruction issues a notice pursuant to subsection (2) of this section, submit a revised budget which meets the requirements of RCW 43.09.200, this chapter, and the rules and regulations of the superintendent of public instruction: PROVIDED, That if the district fails or refuses to submit a revised budget which in the determination of the superintendent of public instruction meets the requirements of RCW 43.09.200, this chapter, and the rules and regulations of the superintendent of public instruction, the matter shall be submitted to the state board of education, which board shall meet and adopt a financial plan which shall be in effect until a budget can be adopted and submitted by the district in compliance with this section. [1990 c 33 § 422; 1983 c 59 § 10; 1975-'76 2nd ex.s. c 118 § 14. Formerly RCW 28A.65.465.]

Application—Effective date—Severability—1983 c 59: See notes following RCW 28A.505.010.

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

28A.505.150 Budgeted expenditures as appropriations—Interim expenditures—Transfer between budget classes—Liability for nonbudgeted expenditures. Total budgeted expenditures for each fund as adopted in the budget of a school district shall constitute the appropriations of the district for the ensuing fiscal year and the board of directors shall be limited in the incurring of expenditures to the grand total of such appropriations. The board of directors shall incur no expenditures for any purpose in excess of the appropriation for each fund: PROVIDED, That no board of directors shall be prohibited from incurring expenditures for the payment of regular employees, for the necessary repairs and upkeep of the school plant, for the purchase of books and supplies, and for their participation in joint purchasing agencies authorized in RCW 28A.320.080 during the interim while the budget is being settled under RCW 28A.505.140: PROVIDED FURTHER, That transfers between budget classes may be made by the school district's chief administrative officer or finance officer, subject to such restrictions as may be imposed by the school district board of directors.

Directors, officers or employees who knowingly or negligently violate or participate in a violation of this section by the incurring of expenditures in excess of any appropriation(s) shall be held civilly liable, jointly and severally, for such expenditures in excess of such appropriation(s), including consequential damages following therefrom, for each such violation. If as a result of any civil or criminal action the violation is found to have been done knowingly, such director, officer, or employee who is found to have participated in such breach shall immediately forfeit his or her office or employment, and the judgment in any such action shall so provide.

Nothing in this section shall be construed to limit the duty of the attorney general to carry out the provisions of RCW 43.09.260, as now or hereafter amended. [1990 c 33 § 423; 1975-'76 2nd ex.s. c 118 § 15. Formerly RCW 28A.65.470.]

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

28A.505.160 Appropriations lapse at end of fiscal year—Exception. All appropriations for any school district upon which their budget is based shall lapse at the end of the fiscal year. At the expiration of said period all appropriations shall become null and void and any claim presented thereafter against any such appropriation for the fiscal year just closed shall be provided for in the appropriation for the next fiscal year: PROVIDED, That this shall not prevent payments upon incompleting improvements in progress at the close of the fiscal year. [1975-'76 2nd ex.s. c 118 § 16. Formerly RCW 28A.65.475.]

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

28A.505.170 First class school districts—Emergency or additional appropriation resolutions—Procedure. (1) Notwithstanding any other provision of this chapter, upon the happening of any emergency in first class school districts caused by fire, flood, explosion, storm, earthquake, epidemic, riot, insurrection, or for the restoration to a condition of usefulness of any school district property, the usefulness of which has been destroyed by accident, and no provision has been made for such expenditures in the adopted appropriation, the board of directors, upon the adoption by the vote of the majority of all board members of a resolution stating the facts constituting the emergency, may make an appropriation therefor without notice or hearing.

(2) Notwithstanding any other provision of this chapter, if in first class districts it becomes necessary to increase the amount of the appropriation, and if the reason is not one of the emergencies specifically enumerated in subsection (1) of this section, the school district board of directors, before incurring expenditures in excess of the appropriation, shall adopt a resolution stating the facts and the estimated amount of appropriation to meet it.

Such resolution shall be voted on at a public meeting, notice to be given in the manner provided in RCW 28A.505.050. Its introduction and passage shall require the vote of a majority of all members of the school district board of directors.

Any person may appear at the meeting at which the appropriation resolution is to be voted on and be heard for or against the adoption thereof.

Copies of all adopted appropriation resolutions shall be filed with the educational service district who shall forward one copy each to the office of the superintendent of public instruction. One copy shall be retained by the educational service district. [1990 c 33 § 424; 1984 c 128 § 9; 1983 c 59 § 11; 1975-'76 2nd ex.s. c 118 § 17. Formerly RCW 28A.65.480.]

Application—Effective date—Severability—1983 c 59: See notes following RCW 28A.505.010.

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

28A.505.180 Second class school districts—Additional appropriation resolutions—Procedure. Notwithstanding any other provision of this chapter, if a second class school district needs to increase the amount of the appropriation from any fund for any reason, the school district board of directors, before incurring expenditures in excess of appropriation, shall adopt a resolution stating the facts and estimating the amount of additional appropriation needed.

Such resolution shall be voted on at a public meeting, notice to be given in the manner provided by RCW 28A.505.050. Its introduction and passage shall require the vote of a majority of all members of the school district board of directors.

Any person may appear at the meeting at which the appropriation resolution is to be voted on and be heard for or against the adoption thereof.

Upon passage of the appropriation resolution the school district shall petition the superintendent of public instruction for approval to increase the amount of its appropriations in the manner prescribed in rules and regulations for such approval by the superintendent.

Copies of all appropriation resolutions approved by the superintendent of public instruction shall be filed by the office of the superintendent of public instruction with the educational service district. [1990 c 33 § 425; 1984 c 128 § 10; 1983 c 59 § 12; 1975-'76 2nd ex.s. c 118 § 18. Formerly RCW 28A.65.485.]

Application—Effective date—Severability—1983 c 59: See notes following RCW 28A.505.010.

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

28A.505.200 Repayment of federal moneys—Federal disallowance determination. Each school district that receives federal moneys from or through the superintendent of public instruction shall comply with applicable federal requirements and shall repay expenditures subsequently disallowed by the federal government together with such interest as may be assessed by the federal government. Once a federal disallowance determination, decision, or order becomes final respecting federal moneys expended by a school district, the superintendent of public instruction may withhold all or a portion of the annual basic education allocation amounts otherwise due and apportionable to the school district as necessary to facilitate payment of the principal and interest to the federal government. The superintendent of public instruction may pay withheld basic education allocation moneys:

(1) To the school district before the close of the biennium and following the school district's repayment of moneys due the federal government, or the school district's commitment to an acceptable repayment plan, or both; or

(2) To the federal government, subject to the reappropriation of the withheld basic education allocation, moneys for the purpose of payment to the federal government.

No withholding of basic education allocation moneys may occur under this subsection until the superintendent of public instruction has first determined that the withholding should not substantially impair the school district's financial ability to provide the basic education program offerings required by statute. [1990 c 103 § 1.]

Chapter 28A.510

APPORTIONMENT TO DISTRICT—DISTRICT ACCOUNTING

Sections

- 28A.510.250 By state superintendent.
- 28A.510.260 Distribution by ESD superintendent.
- 28A.510.270 County treasurer's duties.

28A.510.250 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	6.0%
July	10.0%
August	10.0%

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 the superintendent determines in the affirmative, he or she 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. [1990 c 33 § 426; 1982 c 136 § 1; 1981 c 282 § 1; 1981 c 5 § 32; 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 28A.48.010, 28.48.010.]

Certain 1982-83 school year monthly payments delayed—Interest—1982 c 136: "For the 1982-83 school year, one-half of the September, October, March, and April payments under RCW 28A.48.010 shall be made on the last business day of the respective month and the remainder on the fifteenth day of the following month. Interest shall be paid on the amounts deferred under this section at the rate for state interfund loans as established by the state finance committee." [1982 c 136 § 2.]

Effective date—1982 c 136: "Section 3 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 [April 1, 1982]. The remainder to [of] this act shall take effect September 1, 1982." [1982 c 136 § 5.]

Severability—1980 c 6: See note following RCW 28A.515.320.

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

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 [February 25, 1972]." [1972 ex.s. c 146 § 3.]

Severability—1970 ex.s. c 15: See note following RCW 28A.230.160.

Student transportation allocation—Notice—Revised eligible student data, when—Allocation payments, amounts, when: RCW 28A.160.190.

Student transportation vehicle acquisition allocation—Reimbursement schedule—Depreciation schedule: RCW 28A.160.200.

28A.510.260 Distribution by ESD superintendent. Upon receiving the certificate of apportionment from the superintendent of public instruction the educational service district superintendent shall promptly apportion to the school districts of his or her educational service district the amounts then due and apportionable to such districts as certified by the superintendent of public instruction. [1990 c 33 § 427; 1983 c 56 § 5; 1975 1st ex.s. c 275 § 68; 1969 ex.s. c 176 § 109; 1969 ex.s. c 223 § 28A.48.030. Prior: 1965 ex.s. c 162 § 2; 1945 c 141 § 9; Rem. Supp. 1945 § 4940-8. Formerly RCW 28A.48.030, 28.48.030.]

Severability—1983 c 56: See note following RCW 28A.195.010.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.510.270 County treasurer's duties. The county treasurer of each county of this state shall be ex officio treasurer of the several school districts of their respective counties, and, except as otherwise provided by law, it shall be the duty of each county treasurer:

(1) To receive and hold all moneys belonging to such school districts, and to pay them only for legally authorized obligations of the district.

(2) To prepare and submit to each school district superintendent in the county a written report of the state of the finances of such district on the first day of each month, which report shall be submitted not later than the seventh business day of the month, which report shall contain the balance on hand the first of the preceding month, the funds

paid in, warrants paid with interest thereon, if any, the number of warrants issued and not paid, and the balance on hand.

(3) The treasurer of each county shall submit a statement of all canceled warrants of districts to the respective school district superintendents. The canceled warrants of each district shall be preserved separately and shall at all times be open to inspection by the school district superintendent or by any authorized accountant of such district. [1991 c 245 § 2; 1990 c 33 § 428; 1975-'76 2nd ex.s. c 118 § 28; 1975 1st ex.s. c 275 § 73; 1969 ex.s. c 176 § 114; 1969 ex.s. c 223 § 28A.48.100. Prior: 1911 c 85 § 1; 1909 c 97 p 309 § 1; RRS § 4867; prior: 1907 c 240 § 8; 1897 c 118 § 59; 1893 c 109 § 8; 1891 c 127 § 27; 1890 p 380 § 71; 1886 p 26 § 83; Code 1881 § 3236. Formerly RCW 28A.48.100, 28.48.100.]

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

Chapter 28A.515

COMMON SCHOOL CONSTRUCTION FUND

Sections

28A.515.300	Permanent common school fund—Sources—Use.
28A.515.310	Certain losses to permanent common school fund or other state educational funds as funded debt against state.
28A.515.320	Common school construction fund—Sources—Use—Excess moneys in, availability, repayment.

28A.515.300 Permanent common school fund—Sources—Use. The principal of the common school fund as the same existed on June 30, 1965, shall remain permanent and irreducible. The said fund shall consist of the principal amount thereof existing on June 30, 1965, and such additions thereto as may be derived after June 30, 1965, from the following named sources, to wit: Appropriations and donations by the state to this fund; donations and bequests by individuals to the state or public for common schools; the proceeds of lands and other property which revert to the state by escheat and forfeiture; the proceeds of all property granted to the state, when the purpose of the grant is not specified, or is uncertain; funds accumulated in the treasury of the state for the disbursement of which provision has not been made by law; the proceeds of the sale of stone, minerals or property other than timber and other crops from school and state lands, other than those granted for specific purposes; all moneys received from persons appropriating stone, minerals or property other than timber and other crops from school and state lands other than those granted for specific purposes, and all moneys other than rental, recovered from persons trespassing on said lands; five percent of the proceeds of the sale of public lands lying within the state, which shall be sold by the United States subsequent to the admission of the state into the Union as approved by section 13 of the act of congress enabling the admission of the state into the Union; the principal of all funds arising from the sale of lands and other property which have been, and hereafter may be, granted to the state for the support of common schools and such other funds as may be provided

by legislative enactment. [1969 ex.s. c 223 § 28A.40.010. Prior: 1967 c 29 § 1; 1909 c 97 p 320 § 1; RRS § 4932; prior: 1897 c 118 § 109; 1890 p 373 § 50; 1886 p 20 § 57, part; Code 1881 § 3210, part; 1873 p 421 § 1. Formerly RCW 28A.40.010, 28.40.010.]

Banks and trust companies, liquidation and winding up dividends unclaimed deposited in: RCW 30.44.150, 30.44.180. *personal property, proceeds deposited in:* RCW 30.44.220.

Enlargement of, legislature may provide: State Constitution Art. 9 § 3 (Amendment 43).

Escheated estates deposited in: RCW 11.08.210.

Game and game fish lands

payments to in lieu of property taxes: RCW 77.12.203.

withdrawn from lease, payment of amount of lease into: RCW 77.12.360.

Interest deposited in current state school fund used for current expenses: State Constitution Art. 9 § 3 (Amendment 43).

Investment of permanent common school fund: State Constitution Art. 16 § 5 (Amendment 44).

Lands set aside and permanent funds established: Enabling act §§ 10 through 25.

Losses occasioned by default, fraud, etc., to become permanent debt against state: State Constitution Art. 9 § 5.

Permanent and irreducible: State Constitution Art. 9 § 3 (Amendment 43), RCW 28A.515.300.

Safe deposit box contents

rent unpaid, sale, proceeds deposited in: RCW 22.28.040.

unclaimed after liquidation and winding up of bank or trust company, proceeds from sale deposited in: RCW 30.44.220.

School funds enumerated—Deposits—Uses: RCW 28A.320.330.

State land

acquired, lease and sale of, disposition of proceeds: RCW 79.01.612.

withdrawn for game purposes, payment of amount of lease into: RCW 77.12.360.

28A.515.310 Certain losses to permanent common school fund or other state educational funds as funded debt against state. All losses to the permanent common school or any other state educational fund, which shall be occasioned by defalcation, mismanagement or fraud of the agents or officers controlling or managing the same, shall be audited by the proper authorities of the state. The amount so audited shall be a permanent funded debt against the state in favor of the particular fund sustaining such loss, upon which not less than six percent annual interest shall be paid. [1969 ex.s. c 223 § 28A.40.020. Prior: 1909 c 97 p 321 § 2; RRS § 4933; prior: 1897 c 118 § 110, part; 1890 p 373 § 51, part. Formerly RCW 28A.40.020, 28.40.020.]

28A.515.320 Common school construction fund—Sources—Use—Excess moneys in, availability, repayment. 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 other than those granted for specific purposes; (2) the interest accruing on the permanent common school fund less the allocations to the state treasurer's service account [fund] pursuant to RCW 43.08.190 and the state investment board expense account pursuant to RCW 43.33A.160 together with all rentals and other revenue derived therefrom and from land and other property devoted to the permanent common school fund; (3) all moneys received by the state from the United States under the provisions of section 191, Title 30, [Title 28A RCW—page 164]

United States Code, Annotated, and under section 810, chapter 12, Title 16, (Conservation), United States Code, Annotated, except moneys received before June 30, 2001, and when thirty megawatts of geothermal power is certified as commercially available by the receiving utilities and the state energy office, eighty percent of such moneys, under the Geothermal Steam Act of 1970 pursuant to RCW 43.140.030; 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 less the allocations to the state treasurer's service account [fund] pursuant to RCW 43.08.190 and the state investment board expense account pursuant to RCW 43.33A.160 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.

To the extent that the moneys in the common school construction fund are in excess of the amount necessary to allow fulfillment of the purpose of said fund, the excess shall be available for deposit to the credit of the permanent common school fund or available for the current use of the common schools, as the legislature may direct. Any money from the common school construction fund which is made available for the current use of the common schools shall be restored to the fund by appropriation, including interest income foregone, before the end of the next fiscal biennium following such use. [1991 sp.s. c 13 § 58; 1991 c 76 § 2; 1981 c 158 § 6; 1981 c 4 § 1; 1980 c 6 § 1; 1969 ex.s. c 223 § 28A.40.100. Prior: 1967 c 29 § 3. Formerly RCW 28A.40.100, 28.40.100.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Severability—1981 c 4: "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." [1981 c 4 § 10.]

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.]

Current state school fund—Abolished—Moneys transferred: RCW 43.79.425.

Chapter 28A.520

FOREST RESERVE FUNDS DISTRIBUTION

Sections

28A.520.010	Distribution of forest reserve funds—Procedure—Proportional county area distribution, when.
28A.520.020	Distribution of forest reserve funds—Revolving account created—Use—Apportionments from—As affects basic education allocation.

28A.520.010 Distribution of forest reserve funds—Procedure—Proportional county area distribution, when. 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, and fifty percent shall be spent by the counties on public schools as provided in RCW 28A.520.020(2), or for any other purposes as now or hereafter authorized by federal law, in the counties in the United States forest reserve from which such moneys were received. 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 or her 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. The county legislative authority shall expend the fifty percent received by the county for the benefit of the public roads or public schools of the county, or for any other purposes as now or hereafter authorized by federal law. [1990 c 33 § 429; 1985 c 311 § 1; 1982 c 126 § 1. Formerly RCW 28A.02.300.]

Effective date—1982 c 126: "This act shall take effect July 1, 1983." [1982 c 126 § 5.]

Severability—1982 c 126: "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." [1982 c 126 § 4.]

28A.520.020 Distribution of forest reserve funds—Revolving account created—Use—Apportionments from—As affects basic education allocation. (1) There shall be a fund known as the federal forest revolving account. The state treasurer, who shall be custodian of the revolving account, shall deposit into the revolving account the funds for each county received by the state in accordance with Title 16, section 500, United States Code. The state treasurer shall distribute these moneys to the counties according to the determined proportional area. The county legislative authority shall expend fifty percent of the money for the benefit of the public roads and other public purposes as authorized by federal statute or public schools of such county and not otherwise. Disbursements by the counties of the remaining fifty percent of the money shall be as authorized by the superintendent of public instruction, or the superintendent's designee, and shall occur in the manner provided in subsection (2) of this section.

(2) No later than thirty days following receipt of the funds from the federal government, the superintendent of public instruction shall apportion moneys distributed to counties for schools to public school districts in the respective counties in proportion to the number of full time equivalent students enrolled in each public school district to the number of full time equivalent students enrolled in public schools in the county. In apportioning these funds, the superintendent of public instruction shall utilize the October enrollment count.

(3) If the amount received by any public school district pursuant to subsection (2) of this section is less than the basic education allocation to which the district would otherwise be entitled, the superintendent of public instruction shall apportion to the district, in the manner provided by RCW 28A.510.250, an amount which shall be the difference between the amount received pursuant to subsection (2) of this section and the basic education allocation to which the district would otherwise be entitled.

(4) All federal forest funds shall be expended in accordance with the requirements of Title 16, section 500, United States Code, as now existing or hereafter amended. [1991 sp.s. c 13 § 113; 1990 c 33 § 430; 1985 c 311 § 2; 1982 c 126 § 2. Formerly RCW 28A.02.310.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—Severability—1982 c 126: See notes following RCW 28A.520.010.

Chapter 28A.525 BOND ISSUES

Sections

28A.525.010	Statement of intent.
28A.525.020	Duties of state board of education.
28A.525.030	Modernization of existing school facilities.
28A.525.040	Portable buildings or classrooms.
28A.525.050	Applications for aid—Rules and regulations—Recommendations.
28A.525.060	Manual—Contents—Preparation and revision.
28A.525.070	State superintendent to assist districts and state board.
28A.525.080	Federal grants—Rules and regulations.
28A.525.120	1967 bond issue for construction, modernization of school plant facilities—Authorized—Sale, conditions—Form, terms, etc.
28A.525.122	1967 bond issue for construction, modernization of school plant facilities—Common school building construction account—Created—Proceeds from bond sale deposited in—Use.
28A.525.124	1967 bond issue for construction, modernization of school plant facilities—Bonds not general obligation of state—Bonds, interest on, source for payment of—Pledge.
28A.525.126	1967 bond issue for construction, modernization of school plant facilities—Common school building bond redemption fund of 1967—Created—Use—Transfer of funds to—Prior charge against certain common school construction fund moneys.
28A.525.128	1967 bond issue for construction, modernization of school plant facilities—Legislature may provide additional means of revenue—General credit of state not pledged.
28A.525.130	1967 bond issue for construction, modernization of school plant facilities—Bonds are negotiable, legal investment and security.
28A.525.132	1967 bond issue for construction, modernization of school plant facilities—Allotment of funds appropriated from common school building construction account or common school construction fund—Local responsibility—Duties, rules and regulations of state board of education.
28A.525.134	1967 bond issue for construction, modernization of school plant facilities—Appropriations to state board of education—Allocation of, limitations.
28A.525.140	1969 bond issue for construction, modernization of school plant facilities—Authorized—Sale, conditions—Form, terms.
28A.525.142	1969 bond issue for construction, modernization of school plant facilities—Proceeds from bond sale deposited in common school building construction account—Use.
28A.525.144	1969 bond issue for construction, modernization of school plant facilities—Bonds not general obligation of state—Bonds, interest on, source of payment of—Pledge.
28A.525.146	1969 bond issue for construction, modernization of school plant facilities—Common school building bond redemption fund of 1967—Use—Transfer of funds to—Prior charge against certain common school construction fund moneys.

28A.525.148	1969 bond issue for construction, modernization of school plant facilities—Legislature may provide additional means of revenue.	28A.525.222	1984 bond issue for construction, modernization of school plant facilities—Bonds as legal investment for public funds.
28A.525.150	1969 bond issue for construction, modernization of school plant facilities—Bonds are negotiable, legal investment and security.	28A.525.230	Bonds authorized—Amount—As compensation for sale of timber—Sale, conditions.
28A.525.152	1969 bond issue for construction, modernization of school plant facilities—Allotment of funds appropriated from common school building construction account—Local responsibility—Duties of state board of education.	28A.525.240	Bond anticipation notes—Authorized—Payment.
28A.525.154	1969 bond issue for construction, modernization of school plant facilities—Appropriations to state board of education—Allocation of, limitations.	28A.525.250	Form, terms, conditions, sale and covenants of bonds and notes.
28A.525.156	Bonds authorized under RCW 28A.525.120 through 28A.525.154 may be refunded—Security.	28A.525.260	Disposition of proceeds from sale of bonds and notes—Use.
28A.525.158	Rescinding authority to issue balance of bonds authorized under RCW 28A.525.140 through 28A.525.154.	28A.525.270	State general obligation bond retirement fund utilized for payment of bond principal and interest—Procedure.
28A.525.160	1969 appropriation for construction, modernization of school plant facilities.	28A.525.280	Bonds as legal investment for public funds.
28A.525.162	Allotment of appropriations for school plant facilities by state board—Local school district participation—Computing state matching percentage—Rules.	28A.525.290	Chapter provisions as limited by other statutes, covenants and proceedings.
28A.525.164	Allotment of appropriations for school plant facilities—Duties of board.	28A.525.300	Proceeds from sale of bonds as compensation for sale of timber from trust lands.
28A.525.166	Allotment of appropriations for school plant facilities—Basis of state aid for school plant.		
28A.525.168	Allotment of appropriations for school plant facilities—Taxable valuation and percentage of state assistance to be used in determining eligibility.		
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28A.525.220	1984 bond issue for construction, modernization of school plant facilities—Legislature may provide additional means for payment.		

28A.525.010 Statement of intent. It is hereby declared to be the intent of the legislature that the following provisions be enacted for the purpose of establishing and providing for the operation of a program of state assistance to school districts in providing school plant facilities. [1969 ex.s. c 223 § 28A.47.050. Prior: 1947 c 278 § 1; Rem. Supp. 1947 § 4940-12. Formerly RCW 28A.47.050, 28.47.050.]

28A.525.020 Duties of state board of education. The state board of education shall have the power and it shall be its duty (1) to prescribe rules and regulations governing the administration, control, terms, conditions, and disbursements of allotments to school districts to assist them in providing school plant facilities; (2) to approve allotments to districts that apply for state assistance whenever the board deems such action advisable and in so doing to give due consideration to the findings, reports, and recommendations of the superintendent of public instruction pertaining thereto; (3) to authorize the payment of approved allotments by warrant of the state treasurer; and (4) in the event that the amount of state assistance applied for exceeds the funds available for such assistance during any biennium, to make allotments on the basis of the urgency of need for school facilities in the districts that apply for assistance and/or to prorate allotments among such districts in conformity with procedures and regulations applicable thereto which shall be established by the state board. [1969 ex.s. c 223 § 28A.47.060. Prior: 1947 c 278 § 2; Rem. Supp. 1947 § 4940-13. Formerly RCW 28A.47.060, 28.47.060.]

28A.525.030 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 28A.47.073, 28.47.073.]

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

28A.525.040 Portable buildings or classrooms. State matching funds shall not be denied to any school district undertaking any construction, repairs or improvements for school district purposes solely on the ground that said construction, repairs and improvements are in connection with portable buildings or classrooms. [1969 ex.s. c 223 § 28A.47.075. Prior: 1953 c 158 § 1. Formerly RCW 28A.47.075, 28.47.075.]

28A.525.050 Applications for aid—Rules and regulations—Recommendations. All applications by school districts for state assistance in providing school plant facilities shall be made to the superintendent of public instruction in conformity with rules and regulations which shall be prescribed by the state board of education. Studies and surveys shall be conducted by the aforesaid officer for the purpose of securing information relating to (1) the kind and extent of the school plant facilities required and the urgency of need for such facilities in districts that seek state assistance, (2) the ability of such districts to provide capital outlay funds by local effort, (3) the need for improvement of school administrative units and school attendance areas among or within such districts, and (4) any other pertinent matters. Recommendations respecting action on the aforesaid applications shall be submitted to the state board of education by the superintendent of public instruction together with such reports of the findings, studies, and surveys made by said officer as may be required by the state board. [1969 ex.s. c 223 § 28A.47.080. Prior: 1947 c 278 § 4; Rem. Supp. 1947 § 4940-15. Formerly RCW 28A.47.080, 28.47.080.]

28A.525.060 Manual—Contents—Preparation and revision. It shall be the duty of the superintendent of public instruction, in consultation with the Washington state department of social and health services, to prepare, and so often as the superintendent deems necessary revise, a manual for the information and guidance of local school district authorities and others responsible for and concerned with the designing, planning, maintenance, and operation of school plant facilities for the common schools. In the preparation and revision of the aforesaid manual due consideration shall be given to the presentation of information regarding (1) the need for cooperative state-local district action in planning school plant facilities arising out of the cooperative plan for financing said facilities provided for in RCW 28A.525.010 through 28A.525.080 and 28A.335.230; (2) procedures in inaugurating and conducting a school plant planning program for a school district; (3) standards for use in determining the selection and development of school sites and in designing, planning, and constructing school buildings to the end that the health, safety, and educational well-being and development of school children will be served; (4) the planning of

readily expandable and flexible school buildings to meet the requirements of an increasing school population and a constantly changing educational program; (5) an acceptable school building maintenance program and the necessity therefor; (6) the relationship of an efficient school building operations service to the health and educational progress of pupils; and (7) any other matters regarded by the aforesaid officer as pertinent or related to the purposes and requirements of RCW 28A.525.010 through 28A.525.080 and 28A.335.230. [1990 c 33 § 431; 1979 c 141 § 36; 1969 ex.s. c 223 § 28A.47.090. Prior: 1947 c 278 § 5; Rem. Supp. 1947 § 4940-16. Formerly RCW 28A.47.090, 28.47.090.]

28A.525.070 State superintendent to assist districts and state board. The superintendent of public instruction shall furnish (1) to school districts seeking state assistance consultatory and advisory service in connection with the development of school building programs and the planning of school plant facilities for such district, and (2) to the state board of education such service as may be required by the board in the exercise of the powers and the performance of the duties vested in and required to be performed by the board. [1985 c 136 § 1; 1969 ex.s. c 223 § 28A.47.100. Prior: 1947 c 278 § 6; Rem. Supp. 1947 § 4940-17. Formerly RCW 28A.47.100, 28.47.100.]

28A.525.080 Federal grants—Rules and regulations. Insofar as is permissible under acts of congress, funds made available by the federal government for the purpose of assisting school districts in providing school plant facilities shall be made available to such districts in conformity with rules and regulations which the state board of education shall establish. [1969 ex.s. c 223 § 28A.47.120. Prior: 1947 c 278 § 8; Rem. Supp. 1947 § 4940-19. Formerly RCW 28A.47.120, 28.47.120.]

28A.525.120 1967 bond issue for construction, modernization of school plant facilities—Authorized—Sale, conditions—Form, terms, etc. For the purpose of furnishing funds for state assistance to school districts in providing common school plant facilities and modernization of existing common school plant facilities, there shall be issued and sold limited obligation bonds of the state of Washington in the sum of twenty-two million dollars to be paid and discharged in accordance with terms to be established by the finance committee. The issuance, sale and retirement of said bonds shall be under the general supervision and control of the state finance committee: PROVIDED, That no part of the twenty-two million dollar bond issue shall be sold unless there are insufficient funds in the common school construction fund to meet appropriations authorized by RCW 28A.525.120 through 28A.525.134 as evidenced by a joint agreement entered into between the governor and the superintendent of public instruction.

The state finance committee is authorized to prescribe the forms of such bonds; the provisions of sale of all or any portion or portions of such bonds; the terms, provisions, and covenants of said bonds, and the sale, issuance and redemption thereof. The covenants of said bonds may include but not be limited to a covenant for the creation, maintenance

and replenishment of a reserve account or accounts within the common school building bond redemption fund of 1967 to secure the payment of the principal of and interest on said bonds, into which it shall be pledged there will be paid, from the same sources pledged for the payment of such principal and interest, such amounts at such times which in the opinion of the state finance committee are necessary for the most advantageous sale of said bonds; a covenant that additional bonds which may be authorized by the legislature payable out of the same source or sources may be issued on a parity with the bonds authorized in RCW 28A.525.120 through 28A.525.134 upon compliance with such conditions as the state finance committee may deem necessary to effect the most advantageous sale of the bonds authorized in RCW 28A.525.120 through 28A.525.134 and such additional bonds; and if found reasonably necessary by the state finance committee to accomplish the most advantageous sale of the bonds authorized herein or any issue or series thereof, such committee may select a trustee for the owners and holders of such bonds or issue or series thereof and shall fix the rights, duties, powers and obligations of such trustee. The money in such reserve account or accounts and in such common school construction fund may be invested in any investments that are legal for the permanent common school fund of the state, and any interest earned on or profits realized from the sale of any such investments shall be deposited in such common school building bond redemption fund of 1967. None of the bonds herein authorized shall be sold for less than the par value thereof.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds and upon any coupons attached thereto. Such bonds shall be payable at such places as the state finance committee may provide. [1990 c 33 § 440; 1970 ex.s. c 15 § 26; 1969 c 77 § 4; 1969 ex.s. c 223 § 28A.47.784. Prior: 1967 ex.s. c 56 § 1. Formerly RCW 28A.47.784.]

Severability—1970 ex.s. c 15: See note following RCW 28A.230.160.

28A.525.122 1967 bond issue for construction, modernization of school plant facilities—Common school building construction account—Created—Proceeds from bond sale deposited in—Use. The common school building construction account of the general fund is hereby created as an account of the general fund and the proceeds from the sale of the bonds authorized by RCW 28A.525.120 through 28A.525.134 shall be deposited therein and shall be used exclusively for the purposes of carrying out the provisions of RCW 28A.525.120 through 28A.525.134 and for payment of the expense incurred in the printing, issuance and sale of such bonds. [1990 c 33 § 441; 1969 ex.s. c 223 § 28A.47.785. Prior: 1967 ex.s. c 56 § 2. Formerly RCW 28A.47.785, 28.47.785.]

28A.525.124 1967 bond issue for construction, modernization of school plant facilities—Bonds not general obligation of state—Bonds, interest on, source for payment of—Pledge. Bonds issued under the provisions of

RCW 28A.525.120 through 28A.525.134 shall distinctly state that they are not a general obligation bond of the state, but are payable in the manner provided in RCW 28A.525.120 through 28A.525.134 from that portion of the common school construction fund derived from the interest on the permanent common school fund. That portion of the common school construction fund derived from interest on the permanent common school fund is hereby pledged to the payment of any bonds and the interest thereon issued under the provisions of RCW 28A.525.120 through 28A.525.134. [1990 c 33 § 442; 1969 ex.s. c 223 § 28A.47.786. Prior: 1967 ex.s. c 56 § 3. Formerly RCW 28A.47.786, 28.47.786.]

Common school construction fund: Chapter 28A.515 RCW.

28A.525.126 1967 bond issue for construction, modernization of school plant facilities—Common school building bond redemption fund of 1967—Created—Use—Transfer of funds to—Prior charge against certain common school construction fund moneys. The common school building bond redemption fund of 1967 is hereby created in the state treasury which fund shall be exclusively devoted to the retirement of the bonds and interest authorized by RCW 28A.525.120 through 28A.525.134 and to the retirement of and payment of interest on any additional bonds which may be issued on a parity therewith. The state finance committee shall, on or before June thirtieth of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet reserve account payments, interest payments on and retirement of bonds payable out of such common school building bond redemption fund of 1967. On July first of each year the state treasurer shall transfer such amount to the common school building bond redemption fund of 1967 from moneys in the common school construction fund certified by the state finance committee to be interest on the permanent common school fund and such amount certified by the state finance committee to the state treasurer shall be a prior charge against that portion of the common school construction fund derived from interest on the permanent common school fund.

The owner and holder of each of said bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require and compel the transfer and payment of funds as directed herein. [1990 c 33 § 443; 1969 c 77 § 5; 1969 ex.s. c 223 § 28A.47.787. Prior: 1967 ex.s. c 56 § 4. Formerly RCW 28A.47.787.]

28A.525.128 1967 bond issue for construction, modernization of school plant facilities—Legislature may provide additional means of revenue—General credit of state not pledged. The legislature may provide additional means for raising funds for the payment of interest and principal of the bonds authorized by RCW 28A.525.120 through 28A.525.134 from any source or sources not prohibited by the state Constitution and RCW 28A.525.120 through 28A.525.134 shall not be deemed to provide an exclusive method of payment. The power given to the legislature by this section is permissive and shall not be construed to constitute a pledge of general credit of the state of Washington. [1990 c 33 § 444; 1969 c 77 § 6; 1969 ex.s.

c 223 § 28A.47.788. Prior: 1967 ex.s. c 56 § 5. Formerly RCW 28A.47.788.]

28A.525.130 1967 bond issue for construction, modernization of school plant facilities—Bonds are negotiable, legal investment and security. The bonds authorized in RCW 28A.525.120 through 28A.525.134 shall be fully negotiable instruments and shall be legal investment for all state funds or for funds under state control and all funds of municipal corporations, and shall be legal security for all state, county and municipal deposits. [1990 c 33 § 445; 1969 ex.s. c 223 § 28A.47.789. Prior: 1967 ex.s. c 56 § 6. Formerly RCW 28A.47.789, 28.47.789.]

28A.525.132 1967 bond issue for construction, modernization of school plant facilities—Allotment of funds appropriated from common school building construction account or common school construction fund—Local responsibility—Duties, rules and regulations of state board of education. For the purpose of carrying out the provisions of RCW 28A.525.120 through 28A.525.134 funds appropriated to the state board of education from the common school building construction account of the general fund or the common school construction fund shall be allotted by the state board of education in accordance with the provisions of *RCW 28A.47.732 through 28A.47.748: PROVIDED, That no allotment shall be made to a school district for the purpose aforesaid until such district has provided funds for school building construction purposes through the issuance of bonds or through the authorization of excess tax levies or both in an amount equivalent to ten percent of its taxable valuation or such amount as may be required by the state board of education. The state board of education shall prescribe and make effective such rules and regulations as are necessary to equate insofar as possible the efforts made by school districts to provide capital funds by the means aforesaid. [1990 c 33 § 446; 1969 ex.s. c 223 § 28A.47.790. Prior: 1967 ex.s. c 56 § 7. Formerly RCW 28A.47.790, 28.47.790.]

*Reviser's note: RCW 28A.47.732 through 28A.47.748 were repealed by 1983 c 189 § 1.

28A.525.134 1967 bond issue for construction, modernization of school plant facilities—Appropriations to state board of education—Allocation of, limitations. There is hereby appropriated to the state board of education the following sums, or so much thereof as may be necessary, for the purpose of carrying out the provisions of RCW 28A.525.120 through 28A.525.134: (1) Twenty-two million dollars from the common school building construction account and (2) twenty-nine million seven hundred forty-four thousand five hundred and fifty-four dollars from the common school construction fund including three million for modernization of existing school facilities.

In accordance with RCW 28A.525.132, the state board of education is authorized to allocate for the purposes of carrying out the provisions of RCW 28A.525.120 through 28A.525.134 the sum of sixty-three million nine hundred thousand dollars: PROVIDED, That expenditures against such allocation shall not exceed the amount appropriated in this section: PROVIDED FURTHER, That no part of the

allocation provided in this section in excess of the total amount appropriated by RCW 28A.525.120 through 28A.525.134 shall be allocated unless joint agreement of its necessity shall be determined by the governor and the superintendent of public instruction. [1990 c 33 § 447; 1969 ex.s. c 223 § 28A.47.791. Prior: 1967 ex.s. c 56 § 8. Formerly RCW 28A.47.791, 28.47.791.]

28A.525.140 1969 bond issue for construction, modernization of school plant facilities—Authorized—Sale, conditions—Form, terms. For the purpose of furnishing funds for state assistance to school districts in providing common school plant facilities and modernization of existing common school plant facilities, there shall be issued and sold general obligation bonds of the state of Washington in the sum of twenty-two million five hundred thousand dollars to be paid and discharged in accordance with terms to be established by the state finance committee. The issuance, sale and retirement of said bonds shall be under the general supervision and control of the state finance committee: PROVIDED, That no part of the twenty-six million four hundred thousand dollar bond issue shall be sold unless there are insufficient funds in the common school construction fund to meet appropriations authorized by RCW 28A.525.140 through 28A.525.154 as evidenced by a joint agreement entered into between the governor and the superintendent of public instruction.

The state finance committee is authorized to prescribe the forms of such bonds; the provisions of sale of all or any portion or portions of such bonds; the terms, provisions, and covenants of said bonds, and the sale, issuance and redemption thereof. The covenants of said bonds may include but not be limited to a covenant for the creation, maintenance and replenishment of a reserve account or accounts within the common school building bond redemption fund of 1967 to secure the payment of the principal of and interest on said bonds, into which it shall be pledged there will be paid, from the same sources pledged for the payment of such principal and interest, such amounts at such times which in the opinion of the state finance committee are necessary for the most advantageous sale of said bonds; a covenant that additional bonds which may be authorized by the legislature payable out of the same source or sources may be issued on a parity with the bonds authorized in RCW 28A.525.120 through 28A.525.134 and 28A.525.140 through 28A.525.154 upon compliance with such conditions as the state finance committee may deem necessary to effect the most advantageous sale of the bonds authorized in RCW 28A.525.140 through 28A.525.154 and such additional bonds; and if found reasonably necessary by the state finance committee to accomplish the most advantageous sale of the bonds authorized herein or any issue or series thereof, such committee may select a trustee for the owners and holders of such bonds or issue or series thereof and shall fix the rights, duties, powers and obligations of such trustee. The money in such reserve account or accounts and in such common school construction fund may be invested in any investments that are legal for the permanent common school fund of the state, and any interest earned on or profits realized from the sale of any such investments shall be deposited in such common school building bond redemption fund of 1967.

None of the bonds herein authorized shall be sold for less than the par value thereof.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds and upon any coupons attached thereto. Such bonds shall be payable at such places as the state finance committee may provide. [1990 c 33 § 448; 1985 ex.s. c 4 § 11; 1974 ex.s. c 108 § 1; 1971 ex.s. c 4 § 1; 1969 c 13 § 1. Formerly RCW 28A.47.792, 28.47.792.]

Severability—1985 ex.s. c 4: See RCW 43.99G.900.

Severability—1969 c 13: "If any section, paragraph, sentence, clause, phrase or word of this 1969 act shall be held to be invalid or unconstitutional, such 1969 act shall not affect nor impair the validity or constitutionality of any other section, paragraph, sentence, clause, phrase or word of this 1969 act. It is hereby declared that had any section, paragraph, sentence, clause, phrase or word as to which this 1969 act is declared invalid been eliminated from the act at the time the same was considered, the act would have nevertheless been enacted with such portions eliminated." [1969 c 13 § 9.]

Rescinding authority to issue balance of bonds authorized under RCW 28A.525.140 through 28A.525.154: RCW 28A.525.158.

28A.525.142 1969 bond issue for construction, modernization of school plant facilities—Proceeds from bond sale deposited in common school building construction account—Use. The proceeds from the sale of the bonds authorized herein shall be deposited in the common school building construction account of the general fund and shall be used exclusively for the purposes of carrying out the provisions of *RCW 28A.47.742 through 28A.47.748, and for payment of the expense incurred in the printing, issuance and sale of such bonds. [1969 c 13 § 2. Formerly RCW 28A.47.793, 28.47.793.]

*Reviser's note: RCW 28A.47.742 through 28A.47.748 were repealed by 1983 c 189 § 1.

Severability—1969 c 13: See note following RCW 28A.525.140.

28A.525.144 1969 bond issue for construction, modernization of school plant facilities—Bonds not general obligation of state—Bonds, interest on, source of payment of—Pledge. Bonds issued under the provisions of RCW 28A.525.140 through 28A.525.154 shall distinctly state that they are a general obligation bond of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon and shall contain an unconditional promise to pay such principal and interest as the same shall become due. The principal of and interest on such bonds shall be first payable in the manner provided in RCW 28A.525.140 through 28A.525.154 from that portion of the common school construction fund derived from the interest on the permanent common school fund. That portion of the common school construction fund derived from interest on the permanent common school fund is hereby pledged to the payment of any bonds and the interest thereon issued under the provisions of RCW 28A.525.140 through 28A.525.154. [1990 c 33 § 449; 1974 ex.s. c 108 § 2; 1969 c 13 § 3. Formerly RCW 28A.47.794, 28.47.794.]

Severability—1969 c 13: See note following RCW 28A.525.140.

28A.525.146 1969 bond issue for construction, modernization of school plant facilities—Common school building bond redemption fund of 1967—Use—Transfer of funds to—Prior charge against certain common school construction fund moneys. The common school building bond redemption fund of 1967 has been created in the state treasury which fund shall be exclusively devoted to the retirement of the bonds and interest authorized by RCW 28A.525.120 through 28A.525.134 and 28A.525.140 through 28A.525.154 and to the retirement of and payment of interest on any additional bonds which may be issued on a parity therewith. The state finance committee shall, on or before June thirtieth of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet reserve account payments, interest payments on and retirement of bonds payable out of such common school building bond redemption fund of 1967. On July first of each year the state treasurer shall transfer such amount to the common school building bond redemption fund of 1967 from moneys in the common school construction fund certified by the state finance committee to be interest on the permanent common school fund and such amount certified by the state finance committee to the state treasurer shall be a prior charge against that portion of the common school construction fund derived from interest on the permanent common school fund.

The owner and holder of each of said bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require and compel the transfer and payment of funds as directed herein. [1990 c 33 § 450; 1971 ex.s. c 4 § 2; 1969 c 13 § 4. Formerly RCW 28A.47.795, 28.47.795.]

Severability—1969 c 13: See note following RCW 28A.525.140.

28A.525.148 1969 bond issue for construction, modernization of school plant facilities—Legislature may provide additional means of revenue. The legislature may provide additional means for raising funds for the payment of interest and principal of the bonds authorized by RCW 28A.525.140 through 28A.525.154 from any source or sources not prohibited by the state Constitution and RCW 28A.525.140 through 28A.525.154 shall not be deemed to provide an exclusive method of payment. [1990 c 33 § 451; 1974 ex.s. c 108 § 3; 1971 ex.s. c 4 § 3; 1969 c 13 § 5. Formerly RCW 28A.47.796, 28.47.796.]

Severability—1969 c 13: See note following RCW 28A.525.140.

28A.525.150 1969 bond issue for construction, modernization of school plant facilities—Bonds are negotiable, legal investment and security. The bonds herein authorized shall be fully negotiable instruments and shall be legal investment for all state funds or for funds under state control and all funds of municipal corporations, and shall be legal security for all state, county and municipal deposits. [1969 c 13 § 6. Formerly RCW 28A.47.797, 28.47.797.]

Severability—1969 c 13: See note following RCW 28A.525.140.

28A.525.152 1969 bond issue for construction, modernization of school plant facilities—Allotment of funds appropriated from common school building construction account—Local responsibility—Duties of

state board of education. For the purpose of carrying out the provisions of RCW 28A.525.140 through 28A.525.154 funds appropriated to the state board of education from the common school building construction account of the general fund shall be allotted by the state board of education in accordance with the provisions of *RCW 28A.47.732 through 28A.47.748: PROVIDED, That no allotment shall be made to a school district for the purpose aforesaid until such district has provided funds for school building construction purposes through the issuance of bonds or through the authorization of excess tax levies or both in an amount equivalent to ten percent of its taxable valuation or such amount as may be required by the state board of education. The state board of education shall prescribe and make effective such rules and regulations as are necessary to equate insofar as possible the efforts made by school districts to provide capital funds by the means aforesaid. [1990 c 33 § 452; 1969 c 13 § 7. Formerly RCW 28A.47.798, 28.47.798.]

*Reviser's note: RCW 28A.47.732 through 28A.47.748 were repealed by 1983 c 189 § 1.

Severability—1969 c 13: See note following RCW 28A.525.140.

28A.525.154 1969 bond issue for construction, modernization of school plant facilities—Appropriations to state board of education—Allocation of, limitations. There is hereby appropriated to the state board of education the following sums or so much thereof as may be necessary for the purpose of carrying out the provisions of RCW 28A.525.140 through 28A.525.154: Twenty-six million four hundred thousand dollars from the common school building construction account of the general fund and five million seven hundred and fifty-five thousand four hundred and forty-six dollars from the common school construction fund.

In accordance with RCW 28A.525.152, the state board of education is authorized to allocate for the purposes of carrying out the provisions of RCW 28A.525.140 through 28A.525.154 the entire amount of such appropriation as hereinabove in this section provided which is not already allocated for that purpose: PROVIDED, That expenditures against such allocation shall not exceed the amount appropriated in this section. [1990 c 33 § 453; 1969 c 13 § 8. Formerly RCW 28A.47.799, 28.47.799.]

Severability—1969 c 13: See note following RCW 28A.525.140.

28A.525.156 Bonds authorized under RCW 28A.525.120 through 28A.525.154 may be refunded—Security. Any or all of the heretofore issued and outstanding bonds authorized by RCW 28A.525.120 through 28A.525.134 and 28A.525.140 through 28A.525.154 may be refunded by the issuance of general obligation bonds of the state of Washington pursuant to the provisions of chapter 39.53 RCW as heretofore or hereafter amended. Any such refunding general obligation bonds shall be additionally secured as to the payment thereof by a pledge of interest on the permanent common school fund. [1990 c 33 § 454; 1974 ex.s. c 108 § 4. Formerly RCW 28A.47.7991.]

28A.525.158 Rescinding authority to issue balance of bonds authorized under RCW 28A.525.140 through 28A.525.154. Authority to issue the balance of general

obligation bonds authorized by chapter 13, Laws of 1969 and unissued in the amount of three million nine hundred thousand dollars is hereby rescinded. [1979 ex.s. c 241 § 13. Formerly RCW 28A.47.7992.]

Effective date—1979 ex.s. c 241: "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 [June 15, 1979]." [1979 ex.s. c 241 § 15.]

Severability—1979 ex.s. c 241: "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 241 § 14.]

28A.525.160 1969 appropriation for construction, modernization of school plant facilities. For the purpose of furnishing funds for state assistance to school districts in providing common school plant facilities and modernization of existing common school plant facilities, there is hereby appropriated from the common school construction fund the sum of thirty-seven million, four thousand, four hundred twenty-seven dollars. [1969 ex.s. c 244 § 1. Formerly RCW 28A.47.800, 28.47.800.]

Severability—1969 ex.s. c 244: "If any section, paragraph, sentence, clause, phrase or word of this act should be held to be invalid or unconstitutional, such act shall not affect nor impair the validity or constitutionality of any other section, paragraph, sentence, clause, phrase or word of this act. It is hereby declared that had any section, paragraph, sentence, clause, phrase or word as to which this act is declared invalid been eliminated from the act at the time the same was considered, the act would have nevertheless been enacted with such portions eliminated." [1969 ex.s. c 244 § 16.]

28A.525.162 Allotment of appropriations for school plant facilities by state board—Local school district participation—Computing state matching percentage—Rules. (1) 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 and the provisions of RCW 28A.525.200.

(2) No allotment shall be made to a school district until such district has provided matching funds equal to or greater than the difference between the total approved project cost and the amount of state assistance to the district for financing the project computed pursuant to RCW 28A.525.166, with the following exceptions:

(a) The state board may waive the matching requirement for districts which have 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.

(b) 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.

(3) For the purpose of computing the state matching percentage under RCW 28A.525.166 when a school district is granted authority to enter into contracts, adjusted valuation per pupil shall be calculated using headcount student enrollments from the most recent October enrollment reports

submitted by districts to the superintendent of public instruction, adjusted as follows:

(a) In the case of projects for which local bonds were approved after May 11, 1989:

(i) For districts which have been designated as serving high school districts under RCW 28A.540.110, students residing in the nonhigh district so designating shall be excluded from the enrollment count if the student is enrolled in any grade level not offered by the nonhigh district;

(ii) The enrollment of nonhigh school districts shall be increased by the number of students residing within the district who are enrolled in a serving high school district so designated by the nonhigh school district under RCW 28A.540.110, including only students who are enrolled in grade levels not offered by the nonhigh school district; and

(iii) The number of preschool handicapped students included in the enrollment count shall be multiplied by one-half;

(b) In the case of construction or modernization of high school facilities in districts serving students from nonhigh school districts, the adjusted valuation per pupil shall be computed using the combined adjusted valuations and enrollments of each district, each weighted by the percentage of the district's resident high school students served by the high school district; and

(c) The number of kindergarten students included in the enrollment count shall be multiplied by one-half.

(4) 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.

(5) For the purposes of this section, "preschool handicapped students" means developmentally disabled children of preschool age who are entitled to services under RCW 28A.155.010 through 28A.155.100 and are not included in the kindergarten enrollment count of the district. [1990 c 33 § 455; 1989 c 321 § 1; 1980 c 154 § 18; 1974 ex.s. c 56 § 1; 1970 ex.s. c 42 § 5; 1969 ex.s. c 244 § 2. Formerly RCW 28A.47.801, 28.47.801.]

Purpose—Effective dates—Savings—Disposition of certain funds—Severability—1980 c 154: See notes following chapter 82.45 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.]

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.525.160.

28A.525.164 Allotment of appropriations for school plant facilities—Duties of board. In allotting the state funds provided by RCW 28A.525.160 through 28A.525.182, the state board of education shall:

(1) Prescribe rules and regulations not inconsistent with RCW 28A.525.160 through 28A.525.182 governing the administration, control, terms, conditions, and disbursement of allotments to school districts to assist them in providing school plant facilities;

(2) Approve, whenever the board deems such action advisable, allotments to districts that apply for state assistance;

(3) Authorize the payment of approved allotments by warrant of the state treasurer; and

(4) In the event that the amount of state assistance applied for pursuant to the provisions hereof exceeds the funds available for such assistance during any biennium, make allotments on the basis of the urgency of need for school facilities in the districts that apply for assistance or prorate allotments among such districts in conformity with procedures and regulations applicable thereto which shall be established by the board. [1990 c 33 § 456; 1989 c 321 § 2; 1974 ex.s. c 56 § 2; 1969 ex.s. c 244 § 3. Formerly RCW 28A.47.802, 28.47.802.]

Severability—1974 ex.s. c 56: See note following RCW 28A.525.162.

Severability—1969 ex.s. c 244: See note following RCW 28A.525.160.

28A.525.166 Allotment of appropriations for school plant facilities—Basis of state aid for school plant.

Allocations to school districts of state funds provided by RCW 28A.525.160 through 28A.525.182 shall be made by the state board of education and the amount of state assistance to a school district in financing a school plant project shall be determined in the following manner:

(1) The boards of directors of the districts shall determine the total cost of the proposed project, which cost may include the cost of acquiring and preparing the site, the cost of constructing the building or of acquiring a building and preparing the same for school use, the cost of necessary equipment, taxes chargeable to the project, necessary architects' fees, and a reasonable amount for contingencies and for other necessary incidental expenses: PROVIDED, That the total cost of the project shall be subject to review and approval by the state board of education.

(2) The state matching percentage for a school district shall be computed by the following formula:

The ratio of the school district's adjusted valuation per pupil divided by the ratio of the total state adjusted valuation per pupil shall be subtracted from three, and then the result of the foregoing shall be divided by three plus (the ratio of the school district's adjusted valuation per pupil divided by the ratio of the total state adjusted valuation per pupil).

$$\text{Computed State Ratio} = \frac{\text{District adjusted 3-valuation per pupil}}{\text{District adjusted 3+valuation per pupil}} \div \frac{\text{Total state adjusted valuation per pupil}}{\text{Total state adjusted valuation per pupil}} = \text{State \% Assistance}$$

PROVIDED, That in the event the percentage of state assistance to any school district based on the above formula is less than twenty percent and such school district is otherwise eligible for state assistance under RCW 28A.525.160 through 28A.525.182, the state board of education may establish for such district a percentage of state assistance not in excess of twenty percent of the approved cost of the project, if the state board finds that such additional assistance is necessary to provide minimum facilities for housing the pupils of the district.

(3) In addition to the computed percent of state assistance developed in (2) above, a school district shall be entitled to additional percentage points determined by the

average percentage of growth for the past three years. One percent shall be added to the computed percent of state assistance for each percent of growth, with a maximum of twenty percent.

(4) The approved cost of the project determined in the manner herein prescribed times the percentage of state assistance derived as provided for herein shall be the amount of state assistance to the district for the financing of the project: PROVIDED, That need therefor has been established to the satisfaction of the state board of education: PROVIDED, FURTHER, That additional state assistance may be allowed if it is found by the state board of education that such assistance is necessary in order to meet (a) a school housing emergency resulting from the destruction of a school building by fire, the condemnation of a school building by properly constituted authorities, a sudden excessive and clearly foreseeable future increase in school population, or other conditions similarly emergent in nature; or (b) a special school housing burden imposed by virtue of the admission of nonresident students into educational programs established, maintained and operated in conformity with the requirements of law; or (c) a deficiency in the capital funds of the district resulting from financing, subsequent to April 1, 1969, and without benefit of the state assistance provided by prior state assistance programs, the construction of a needed school building project or projects approved in conformity with the requirements of such programs, after having first applied for and been denied state assistance because of the inadequacy of state funds available for the purpose, or (d) a condition created by the fact that an excessive number of students live in state owned housing, or (e) a need for the construction of a school building to provide for improved school district organization or racial balance, or (f) conditions similar to those defined under (a), (b), (c), (d) and (e) hereinabove, creating a like emergency. [1990 c 33 § 457; 1989 c 321 § 3; 1975 1st ex.s. c 98 § 1; 1974 ex.s. c 56 § 3; 1969 ex.s. c 244 § 4. Formerly RCW 28A.47.803, 28.47.803.]

Effective date—1975 1st ex.s. c 98: "This 1975 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1975." [1975 1st ex.s. c 98 § 3.]

Severability—1974 ex.s. c 56: See note following RCW 28A.525.162.

Severability—1969 ex.s. c 244: See note following RCW 28A.525.160.

28A.525.168 Allotment of appropriations for school plant facilities—Taxable valuation and percentage of state assistance to be used in determining eligibility. Whenever the voters of a school district authorize the issuance of bonds and/or the levying of excess taxes in an amount sufficient to meet the requirements of RCW 28A.525.162 respecting eligibility for state assistance in providing school facilities, the taxable valuation of the district and the percentage of state assistance in providing school facilities prevailing at the time of such authorization shall be the valuation and the percentage used for the purpose of determining the eligibility of the district for an allotment of state funds and the amount or amounts of such allotments, respectively, for all projects for which the voters authorize capital funds as aforesaid, unless a higher percent-

age of state assistance prevails on the date that state funds for assistance in financing a project are allotted by the state board of education in which case the percentage prevailing on the date of allotment by the state board of funds for each project shall govern: PROVIDED, That if the state board of education determines at any time that there has been undue or unwarranted delay on the part of school district authorities in advancing a project to the point of readiness for an allotment of state funds, the taxable valuation of the school district and the percentage of state assistance prevailing on the date that the allotment is made shall be used for the purposes aforesaid: PROVIDED, FURTHER, That the date herein specified as applicable in determining the eligibility of an individual school district for state assistance and in determining the amount of such assistance shall be applicable also to cases where it is necessary in administering chapter 28A.540 RCW to determine eligibility for and the amount of state assistance for a group of school districts considered as a single school administrative unit. [1990 c 33 § 458; 1969 ex.s. c 244 § 5. Formerly RCW 28A.47.804, 28.47.804.]

Severability—1969 ex.s. c 244: See note following RCW 28A.525.160.

28A.525.170 Allotment of appropriations for school plant facilities—Additional allotment authorized—Effect of allotment on future disbursements to district. If a school district which has qualified for an allotment of state funds under the provisions of RCW 28A.525.160 through 28A.525.182 for school building construction is found by the state board of education to have a school housing emergency requiring an allotment of state funds in excess of the amount allocable under RCW 28A.525.166, an additional allotment may be made to such district: PROVIDED, That the total amount allotted shall not exceed ninety percent of the total cost of the approved project which may include the cost of the site and equipment. At any time thereafter when the state board of education finds that the financial position of such school district has improved through an increase in its taxable valuation or through retirement of bonded indebtedness or through a reduction in school housing requirements, or for any combination of these reasons, the amount of such additional allotment, or any part of such amount as the state board of education determines, shall be deducted, under terms and conditions prescribed by the board, from any state school building construction funds which might otherwise be provided to such district. [1990 c 33 § 459; 1974 ex.s. c 56 § 4; 1969 ex.s. c 244 § 6. Formerly RCW 28A.47.805, 28.47.805.]

Severability—1974 ex.s. c 56: See note following RCW 28A.525.162.

Severability—1969 ex.s. c 244: See note following RCW 28A.525.160.

28A.525.172 Allotment of appropriations for school plant facilities—Application by district for state assistance—Studies and surveys by state board. All applications by school districts for state assistance in providing school plant facilities shall be made to the superintendent of public instruction in conformity with rules and regulations which shall be prescribed by the state board of education. Studies and surveys shall be conducted by the state board for

the purpose of securing information relating to (a) the kind and extent of the school plant facilities required and the urgency of need for such facilities in districts that seek state assistance, (b) the ability of such districts to provide capital funds by local effort, (c) the need for improvement of school administrative units and school attendance areas among or within such districts, and (d) any other pertinent matters. [1969 ex.s. c 244 § 7. Formerly RCW 28A.47.806, 28.47.806.]

Severability—1969 ex.s. c 244: See note following RCW 28A.525.162.

28A.525.174 Allotment of appropriations for school plant facilities—Manual, other materials to guide and provide information to district. It shall be the duty of the state board of education, in consultation with the Washington state department of social and health services, to prepare a manual and/or to specify other materials for the information and guidance of local school district authorities and others responsible for and concerned with the designing, planning, maintenance and operation of school plant facilities for the public schools. In so doing due consideration shall be given to the presentation of information regarding (a) the need for cooperative state-local district action in planning school plant facilities arising out of the cooperative plan for financing said facilities provided for in RCW 28A.525.160 through 28A.525.182; (b) procedures in inaugurating and conducting a school plant planning program for a school district; (c) standards for use in determining the selection and development of school sites and in designing, planning, and constructing school buildings to the end that the health, safety, and educational well-being and development of school children will be served; (d) the planning of readily expandable and flexible school buildings to meet the requirements of an increasing school population and a constantly changing educational program; (e) an acceptable school building maintenance program and the necessity therefor; (f) the relationship of an efficient school building operations service to the health and educational progress of pupils; and (g) any other matters regarded by the state board as pertinent or related to the purposes and requirements of RCW 28A.525.160 through 28A.525.182. [1990 c 33 § 460; 1979 c 141 § 39; 1974 ex.s. c 56 § 5; 1969 ex.s. c 244 § 8. Formerly RCW 28A.47.807, 28.47.807.]

Severability—1974 ex.s. c 56: See note following RCW 28A.525.162.

Severability—1969 ex.s. c 244: See note following RCW 28A.525.160.

28A.525.176 Allotment of appropriations for school plant facilities—State board to provide district with consultatory, advisory service. The state board of education shall furnish to school districts seeking state assistance under the provisions of RCW 28A.525.160 through 28A.525.182 consultatory and advisory service in connection with the development of school building programs and the planning of school plant facilities. [1990 c 33 § 461; 1974 ex.s. c 56 § 6; 1969 ex.s. c 244 § 9. Formerly RCW 28A.47.808, 28.47.808.]

Severability—1974 ex.s. c 56: See note following RCW 28A.525.162.

Severability—1969 ex.s. c 244: See note following RCW 28A.525.160.

28A.525.178 Allotment of appropriations for school plant facilities—Modifiable basic or standard plans for school buildings. Whenever in the judgment of the state board of education economies may be effected without impairing the usefulness and adequacy of school buildings, said board may prescribe rules and regulations and establish procedures governing the preparation and use of modifiable basic or standard plans for school building construction projects for which state assistance funds provided by RCW 28A.525.160 through 28A.525.182 are allotted. [1990 c 33 § 462; 1974 ex.s. c 56 § 7; 1969 ex.s. c 244 § 10. Formerly RCW 28A.47.809, 28.47.809.]

Severability—1974 ex.s. c 56: See note following RCW 28A.525.162.

Severability—1969 ex.s. c 244: See note following RCW 28A.525.160.

28A.525.180 Allotment of appropriations for school plant facilities—Appropriation to be reduced by amount of federal funds made available for school construction except to federally affected areas. The total amount of funds appropriated under the provisions of RCW 28A.525.160 through 28A.525.182 shall be reduced by the amount of federal funds made available during each biennium for school construction purposes under any applicable federal law. The funds appropriated by RCW 28A.525.160 through 28A.525.182 and available for allotment by the state board of education shall be reduced by the amount of such federal funds made available. Notwithstanding the foregoing provisions of this section, the total amount of funds appropriated by RCW 28A.525.160 through 28A.525.182 shall not be reduced by reason of any grants to any school district of federal moneys paid under Public Law No. 815 or any other federal act authorizing school building construction assistance to federally affected areas. [1990 c 33 § 463; 1974 ex.s. c 56 § 8; 1969 ex.s. c 244 § 11. Formerly RCW 28A.47.810, 28.47.810.]

Severability—1974 ex.s. c 56: See note following RCW 28A.525.162.

Severability—1969 ex.s. c 244: See note following RCW 28A.525.160.

28A.525.182 Allotment of appropriations for school plant facilities—Permissible allocations. In accordance with RCW 28A.525.162, the state board of education is authorized to allocate for the purposes of carrying out the provisions of RCW 28A.525.160 through 28A.525.180 the sum of forty-three million, two hundred thousand dollars: PROVIDED, That expenditures against such allocation shall not exceed the amount appropriated in RCW 28A.525.160. [1990 c 33 § 464; 1969 ex.s. c 244 § 12. Formerly RCW 28A.47.811, 28.47.811.]

Severability—1969 ex.s. c 244: See note following RCW 28A.525.160.

28A.525.190 Board limited when prioritizes construction. The state board of education shall prioritize the construction of common school facilities only from funds appropriated and available in the common school construc-

tion fund. [1975 1st ex.s. c 98 § 2. Formerly RCW 28A.47.820.]

Effective date—1975 1st ex.s. c 98: See note following RCW 28A.525.166.

28A.525.200 Specific RCW sections enumerated governing allocation and distribution of funds for school plant facilities. Notwithstanding any other provision of RCW 28A.525.010 through 28A.525.222, the allocation and distribution of funds by the state board of education which are now or may hereafter be appropriated for the purposes of providing assistance in the construction of school plant facilities shall be governed by RCW 28A.525.010 through 28A.525.080 and 28A.525.162 through 28A.525.178. [1990 c 33 § 465; 1985 c 136 § 2; 1977 ex.s. c 227 § 1. Formerly RCW 28A.47.830.]

28A.525.210 1984 bond issue for construction, modernization of school plant facilities—Intent. It is the intent of the legislature to authorize general obligation bonds of the state of Washington for common school plant facilities which provides for the reimbursement of the state treasury for principal and interest payments and which therefore is not subject to the limitations on indebtedness under RCW 39.42.060. [1984 c 266 § 1. Formerly RCW 28A.47.840.]

Severability—1984 c 266: "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." [1984 c 266 § 8.]

28A.525.212 1984 bond issue for construction, modernization of school plant facilities—Authorized—Sale. For the purpose of furnishing funds for state assistance to school districts in providing common school plant facilities and modernization of existing common school plant facilities, and to provide for the state administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of credit enhancement agreements, and other expenses incidental to the administration of capital projects, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of forty million one hundred seventy thousand dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto.

Bonds authorized in this section may be sold in such manner, at such time or times, in such amounts, and at such price as the state finance committee shall determine. No such bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. The state finance committee may obtain insurance or letters of credit and may authorize the execution and delivery of agreements, promissory notes, and other obligations for the purpose of insuring the payment or enhancing the marketability of bonds authorized in this section. Promissory notes or other obligations issued pursuant to this section shall not constitute a debt or the contracting of indebtedness under any constitutional or statutory indebtedness limitation if their payment is conditioned upon the failure of the state to pay the principal of or interest on the bonds with respect to which the same relate. [1985 ex.s. c 3 § 1; 1984 c 266 § 2. Formerly RCW 28A.47.841.]

Severability—1984 c 266: See note following RCW 28A.525.210.

28A.525.214 1984 bond issue for construction, modernization of school plant facilities—Proceeds deposited in common school construction fund—Use. The proceeds from the sale of the bonds authorized in RCW 28A.525.212 shall be deposited in the common school construction fund and shall be used exclusively for the purposes specified in RCW 28A.525.212 and section 887, chapter 57, Laws of 1983 1st ex. sess. and for the payment of expenses incurred in the issuance and sale of the bonds. [1990 c 33 § 466; 1984 c 266 § 3. Formerly RCW 28A.47.842.]

Severability—1984 c 266: See note following RCW 28A.525.210.

28A.525.216 1984 bond issue for construction, modernization of school plant facilities—Proceeds—Administered by state board of education. The proceeds from the sale of the bonds deposited under RCW 28A.525.214 in the common school construction fund shall be administered by the state board of education. [1990 c 33 § 467; 1984 c 266 § 4. Formerly RCW 28A.47.843.]

Severability—1984 c 266: See note following RCW 28A.525.210.

28A.525.218 1984 bond issue for construction, modernization of school plant facilities—State general obligation bond fund utilized for payment of principal and interest—Committee's and treasurer's duties—Form and condition of bonds. The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds authorized in RCW 28A.525.212. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on such bonds in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the general obligation bond retirement fund, or a special account in such fund, such amounts and at such times as are required by the bond proceedings. On each date on which any interest or principal and interest is due, the state treasurer shall cause an identical amount to be transferred to the general fund of the state treasury from that portion of the common school construction fund derived from the interest on the permanent common school fund. The transfers from the common school construction fund shall be subject to all pledges, liens, and encumbrances heretofore granted or created on the portion of the fund derived from interest on the permanent common school fund. Any deficiency in such transfer shall be made up as soon as moneys are available for transfer and shall constitute a continuing obligation of that portion of the common school construction fund derived from the interest on the permanent common school fund until all deficiencies are fully paid.

Bonds issued under RCW 28A.525.212 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and

shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1990 c 33 § 468; 1985 ex.s. c 3 § 2; 1984 c 266 § 5. Formerly RCW 28A.47.844.]

Severability—1984 c 266: See note following RCW 28A.525.210.

28A.525.220 1984 bond issue for construction, modernization of school plant facilities—Legislature may provide additional means for payment. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 28A.525.212 and 28A.525.218 shall not be deemed to provide an exclusive method for the payment. [1990 c 33 § 469; 1984 c 266 § 6. Formerly RCW 28A.47.845.]

Severability—1984 c 266: See note following RCW 28A.525.210.

28A.525.222 1984 bond issue for construction, modernization of school plant facilities—Bonds as legal investment for public funds. The bonds authorized in RCW 28A.525.212 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1990 c 33 § 470; 1984 c 266 § 7. Formerly RCW 28A.47.846.]

Severability—1984 c 266: See note following RCW 28A.525.210.

28A.525.230 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 twenty-two million seven hundred thousand 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 RCW 28A.525.230 through 28A.525.300 shall not exceed the fair market value of the timber. No bonds authorized by RCW 28A.525.230 through 28A.525.300 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. [1990 c 33 § 471; 1985 ex.s. c 4 § 12; 1980 c 141 § 1. Formerly RCW 28A.47B.010.]

Severability—1985 ex.s. c 4: See RCW 43.99G.900.

28A.525.240 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.525.230 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

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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. [1990 c 33 § 472; 1980 c 141 § 2. Formerly RCW 28A.47B.020.]

28A.525.250 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. Formerly RCW 28A.47B.030.]

28A.525.260 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 RCW 28A.525.230 through 28A.525.300, 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 RCW 28A.525.230 through 28A.525.300, and for payment of the expense incurred in the printing, issuance and sale of the bonds. [1990 c 33 § 473; 1980 c 141 § 4. Formerly RCW 28A.47B.040.]

28A.525.270 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 RCW 28A.525.230 through 28A.525.300.

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. [1990 c 33 § 474; 1980 c 141 § 5. Formerly RCW 28A.47B.050.]

28A.525.280 Bonds as legal investment for public funds. The bonds authorized by RCW 28A.525.230 through 28A.525.300 shall constitute a legal investment for all state funds or for funds under state control and all funds of

municipal corporations. [1990 c 33 § 475; 1980 c 141 § 6. Formerly RCW 28A.47B.060.]

28A.525.290 Chapter provisions as limited by other statutes, covenants and proceedings. No provisions of RCW 28A.525.230 through 28A.525.300 shall be deemed to repeal, override, or limit any provision of RCW 28A.525.120 through 28A.525.182, 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. [1990 c 33 § 476; 1980 c 141 § 7. Formerly RCW 28A.47B.070.]

28A.525.300 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 RCW 28A.525.230 through 28A.525.300 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 RCW 28A.525.230 through 28A.525.300. [1990 c 33 § 477; 1980 c 141 § 8. Formerly RCW 28A.47B.080.]

Chapter 28A.530

DISTRICT BONDS FOR LAND, BUILDINGS, AND EQUIPMENT

Sections

28A.530.010	Directors may borrow money, issue bonds.
28A.530.020	Bond issuance—Election.
28A.530.030	Disposition of bond proceeds—Capital projects fund.
28A.530.040	Refunding former issues without vote of the people.
28A.530.050	Holder to notify treasurer—Redemption.
28A.530.060	Expense of county treasurer.
28A.530.070	Exchange of warrants for bonds.
28A.530.080	Additional authority to contract indebtedness.

28A.530.010 Directors may borrow money, issue bonds. The board of directors of any school district may borrow money and issue negotiable bonds therefor for the purpose of:

- (1) Funding outstanding indebtedness or bonds theretofore issued; or
- (2) For the purchase of sites for all buildings, playgrounds, physical education and athletic facilities and structures authorized by law or necessary or proper to carry out the functions of a school district; or
- (3) For erecting all buildings authorized by law, including but not limited to those mentioned in subsection (2) of this section 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 and other capital 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.

Except for bonds issued under RCW 28A.530.080, bonds may be issued only when authorized by the vote of the qualified electors of the district as provided by law.

The bonds shall be issued and sold in accordance with chapter 39.46 RCW. [1991 c 114 § 3; 1984 c 186 § 10; 1983 c 167 § 21; 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 28A.51.010, 28.51.010, 28.51.050, part.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

Validation—1969 c 142: See RCW 39.36.900.

School funds enumerated—Deposits—Uses—Energy audits: RCW 28A.320.330.

28A.530.020 Bond issuance—Election. The question whether the bonds shall be issued, as provided in RCW 28A.530.010, shall be determined at an election to be held pursuant to RCW 39.36.050. If a majority of the votes cast at such election favor the issuance of such bonds, the board of directors must issue such bonds: PROVIDED, That if the amount of bonds to be issued, together with any outstanding indebtedness of the district that only needs a simple majority voter approval, exceeds three-eighths of one percent of the value of the taxable property in said district, as the term "value of the taxable property" is defined in RCW 39.36.015, then three-fifths of the votes cast at such election must be in favor of the issuance of such bonds, before the board of directors is authorized to issue said bonds. [1990 c 33 § 478; 1984 c 186 § 11; 1970 ex.s. c 42 § 9; 1969 ex.s. c 223 § 28A.51.020. Prior: 1909 c 97 p 324 § 2; RRS § 4942; prior: 1897 c 118 § 118; 1890 p 46 § 2. Formerly RCW 28A.51.020, 28.51.020, 28.51.050, part.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

28A.530.030 Disposition of bond proceeds—Capital projects fund. When the bonds have been sold, the county treasurer shall place the money derived from such sale to the credit of the capital projects fund of the district, and such fund is hereby created. [1984 c 186 § 12; 1983 c 167 § 24; 1979 ex.s. c 257 § 1; 1969 ex.s. c 223 § 28A.51.070. Prior:

1911 c 88 § 1; 1909 c 97 p 326 § 4; RRS § 4944; prior: 1907 c 240 § 9; 1905 c 142 § 7; 1897 c 118 § 120; 1890 p 47 § 4. Formerly RCW 28A.51.070, 28.51.070, 28.51.080, 28.51.090, 28.51.100 and 28.51.110.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

Severability—1979 ex.s. c 257: "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." [1979 ex.s. c 257 § 3.]

28A.530.040 Refunding former issues without vote of the people. Whenever any bonds lawfully issued by any school district under the provisions of this chapter shall reach maturity and shall remain unpaid, or may be paid under any option provided in the bonds, the board of directors thereof shall have the power without any vote of the school district to fund the same by issuing bonds conformable to the requirements of this chapter and use the proceeds exclusively for the purpose of retiring and canceling such outstanding bonds as aforesaid, or the said directors in their discretion may exchange such refunding bonds par for par for such outstanding bonds. [1984 c 186 § 13; 1983 c 167 § 25; 1969 ex.s. c 223 § 28A.51.180. Prior: 1969 ex.s. c 232 § 66; 1945 c 32 § 1; 1909 c 97 p 329 § 12; Rem. Supp. 1945 § 4952; prior: 1897 c 118 § 124, part; 1890 p 48 § 8, part. Formerly RCW 28A.51.180, 28.51.180.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.52.020.

28A.530.050 Holder to notify treasurer—Redemption. Every holder of any of the bonds so issued as a bearer bond as provided in this chapter, within ten days after the owner becomes the owner or holder thereof, shall notify the county treasurer of the county in which such bonds are issued of his or her ownership, together with his or her full name and post office address, and the county treasurer of said county shall deposit in the post office, properly stamped and addressed to each owner of any such bonds subject to redemption or payment, a notice in like form, stating the time and place of the redemption of such bonds and the number of the bonds to be redeemed, and in case any owners of bonds shall fail to notify the treasurer of their ownership as aforesaid, then a notice mailed to the last holder of such bonds shall be deemed sufficient, and any and all such notices so mailed as aforesaid shall be deemed to be personal notice to the holders of such bonds, and at the expiration of the time therein named shall have the force to suspend the interest upon any such bonds. [1990 c 33 § 479; 1983 c 167 § 26; 1969 ex.s. c 223 § 28A.51.190. Prior: 1909 c 97 p 330 § 13; RRS § 4953; prior: 1897 c 118 § 125; 1890 p 49 § 9. Formerly RCW 28A.51.190, 28.51.190.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

28A.530.060 Expense of county treasurer. At any time after the issuance of such bonds as in this chapter provided, and in the discharge of the duties imposed upon said county treasurer, should any incidental expense, costs or charges arise, the said county treasurer shall present his or her claim for the same to the board of directors of the school district issuing such bonds, and the same shall be audited and paid in the same manner as other services are paid under the provisions of law. [1990 c 33 § 480; 1969 ex.s. c 223 § 28A.51.200. Prior: 1909 c 97 p 330 § 14; RRS § 4954; prior: 1897 c 118 § 126; 1890 p 50 § 10. Formerly RCW 28A.51.200, 28.51.200.]

28A.530.070 Exchange of warrants for bonds. If bonds issued under this chapter are not sold as in this chapter provided, the owners of unpaid warrants drawn on the county treasurer by such district for an indebtedness existing at the date of the election may exchange said warrants at the face value thereof and accrued interest thereon for bonds issued under this chapter, at not less than par value and accrued interest of such bonds at the time of the exchange; such exchange to be made under such regulations as may be provided by the board of directors of such district. [1983 c 167 § 27; 1969 ex.s. c 223 § 28A.51.220. Prior: 1909 c 97 p 327 § 5; RRS § 4945. Formerly RCW 28A.51.220, 28.51.220.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

28A.530.080 Additional authority to contract indebtedness. In addition to the authority granted under RCW 28A.530.010, a school district may contract indebtedness for the purpose of purchasing any real or personal property, or property rights, in connection with the exercise of any powers or duties which it is now or hereafter authorized to exercise, and issue bonds, notes, or other evidences of indebtedness therefor without a vote of the qualified electors of the district, subject to the limitations on indebtedness set forth in RCW 39.36.020(3). Such bonds, notes, or other evidences of indebtedness shall be issued and sold in accordance with chapter 39.46 RCW, and the proceeds thereof shall be deposited in the capital projects fund, the transportation vehicle fund, or the general fund, as applicable. [1991 c 114 § 1.]

Chapter 28A.535

VALIDATING INDEBTEDNESS

Sections	
28A.535.010	Authority to validate indebtedness.
28A.535.020	Resolution providing for election—Vote required to validate.
28A.535.030	Notice of election.
28A.535.040	Manner and result of election.
28A.535.050	Authority to borrow, issue bonds.
28A.535.060	Exchange of warrants for bonds.
28A.535.070	Notice to county treasurer of authority to issue bonds—Annual levy for payment of interest and principal on bonds—Penalty against officer for expenditures in excess of revenues.
28A.535.080	Validating indebtedness proceedings after merger.

28A.535.010 Authority to validate indebtedness.

Any school district may validate and ratify the indebtedness of such school district, incurred for strictly school purposes, when the same together with all then outstanding legal indebtedness does not exceed that amount permitted for school districts in RCW 39.36.020 (1) and (3). The value of taxable property in such school district shall be ascertained as provided in Article eight, section six, Amendment 27, of the Constitution of the state of Washington. [1969 ex.s. c 223 § 28A.52.010. Prior: 1909 c 97 p 331 § 1; RRS § 4956; prior: 1897 c 118 § 128; 1895 c 21 § 1. Formerly RCW 28A.52.010, 28.52.010.]

Reviser's note: The above reference to RCW 39.36.020 (1) and (3) was apparently based upon the 1967 version of that section [1967 c 107 § 4]; the contents and organization of that section have been altered by subsequent amendments.

28A.535.020 Resolution providing for election—

Vote required to validate. Whenever the board of directors of any school district shall deem it advisable to validate and ratify the indebtedness mentioned in RCW 28A.535.010, they shall provide therefor by resolution, which shall be entered on the records of such school district, which resolution shall provide for the holding of an election for the purpose of submitting the question of validating and ratifying the indebtedness so incurred to the voters of such school district for approval or disapproval, and if at such election three-fifths of the voters in such school district voting at such election shall vote in favor of the validation and ratification of such indebtedness, then such indebtedness so validated and ratified and every part thereof existing at the time of the adoption of said resolution shall thereby become and is hereby declared to be validated and ratified and a binding obligation upon such school district. [1990 c 33 § 481; 1969 ex.s. c 223 § 28A.52.020. Prior: 1909 c 97 p 331 § 2; RRS § 4957; prior: 1897 c 118 § 129; 1895 c 21 § 2. Formerly RCW 28A.52.020, 28.52.020.]

28A.535.030 Notice of election. At the time of the adoption of the resolution provided for in RCW 28A.535.020, the board of directors shall direct the school district superintendent to give notice to the county auditor of the suggested time and purpose of such election, and specifying the amount and general character of the indebtedness proposed to be ratified. Such superintendent shall also cause written or printed notices to be posted in at least five places in such school district at least twenty days before such election. In addition to his or her other duties relating thereto, the county auditor shall give notice of such election as provided for in RCW 29.27.080. [1990 c 33 § 482; 1969 ex.s. c 223 § 28A.52.030. Prior: 1909 c 97 p 332 § 3; RRS § 4958; prior: 1897 c 118 § 131; 1895 c 21 § 4. Formerly RCW 28A.52.030, 28.52.030.]

28A.535.040 Manner and result of election.

Elections hereunder shall be by ballot, and conducted in the manner provided for conducting annual school elections. The ballot must contain the words, "Validating and ratifying indebtedness, yes," or the words, "Validating and ratifying indebtedness, no." Ballots containing the words, "Validating and ratifying indebtedness, yes," shall be counted in favor of

validating and ratifying such indebtedness, and ballots containing the words, "Validating and ratifying indebtedness, no," shall be counted against validating and ratifying such indebtedness. At their next meeting following ascertainment of the result of the election from the county auditor, the board of directors of any such district holding such an election shall cause to be entered a minute thereof on the records of such district. The qualifications of voters at such election shall be the same as prescribed for the election of school officials. [1969 ex.s. c 223 § 28A.52.040. Prior: 1909 c 97 p 332 § 4; RRS § 4959; prior: 1897 c 118 § 130; 1895 c 21 § 3. Formerly RCW 28A.52.040, 28.52.040.]

Conduct of elections, canvass: RCW 29.13.040.

28A.535.050 Authority to borrow, issue bonds.

If the indebtedness of such school district is validated and ratified, as provided in this chapter, by three-fifths of the voters voting at such election, the board of directors of such school district, without any further vote, may borrow money and issue and sell negotiable bonds therefor in accordance with chapter 39.46 RCW. [1984 c 186 § 14; 1983 c 167 § 28; 1975 c 43 § 2; 1969 ex.s. c 223 § 28A.52.050. Prior: 1909 c 97 p 333 § 5; RRS § 4960; prior: 1897 c 118 § 132; 1895 c 21 § 5. Formerly RCW 28A.52.050, 28.52.050.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

Effective date—Severability—1975 c 43: See notes following RCW 28A.315.230.

28A.535.060 Exchange of warrants for bonds.

If bonds issued under this chapter are not sold as herein provided, the owners of unpaid warrants drawn on the county treasurer by such district for an indebtedness existing at the time of the adoption of the resolution mentioned in RCW 28A.535.020, may exchange said warrants at the face value thereof and accrued interest thereon for bonds issued under this chapter, at not less than par value and accrued interest of such bonds at the time of the exchange; such exchange to be made under such regulations as may be provided by the board of directors of such district. [1990 c 33 § 483; 1983 c 167 § 30; 1969 ex.s. c 223 § 28A.52.060. Prior: 1909 c 97 p 334 § 7; RRS § 4962; prior: 1897 c 118 § 134; 1895 c 21 § 7. Formerly RCW 28A.52.060, 28.52.060.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

28A.535.070 Notice to county treasurer of authority to issue bonds—Annual levy for payment of interest and principal on bonds—Penalty against officer for expenditures in excess of revenues. When authorized to issue bonds, as provided in this chapter the board of directors shall immediately cause to be sent to the appropriate county treasurer, notice thereof. The county officials charged by law with the duty of levying taxes for the payment of said bonds and interest shall do so as provided in RCW 39.46.110.

The annual expense of such district shall not thereafter exceed the annual revenue thereof, and any officer of such district who shall knowingly aid in increasing the annual

expenditure in excess of the annual revenue of such district, in addition to any other penalties, whether civil or criminal, as provided by law, shall be deemed to be guilty of a misdemeanor, and shall be punished by a fine not exceeding five hundred dollars. [1985 c 7 § 90; 1969 ex.s. c 223 § 28A.52.070. Prior: 1909 c 97 p 335 § 8; RRS § 4963; prior: 1897 c 118 § 135; 1895 c 21 § 8. Formerly RCW 28A.52.070, 28.52.070.]

28A.535.080 Validating indebtedness proceedings after merger. In case any school district has heretofore incurred, or shall hereafter incur, indebtedness for strictly school purposes and has heretofore, or shall hereafter, become merged with another district as provided in RCW 28A.315.010 through 28A.315.680 and 28A.315.900, the directors of the last named district may, after such merger, cause to be submitted to the voters within the limits of the district which incurred the obligations, the question of validating and ratifying such indebtedness. The vote shall be taken and the question determined in the manner prescribed in RCW 28A.535.020, 28A.535.030, and 28A.535.040. The directors of the district to which the district incurring the obligations was merged shall make provisions for payment of the indebtedness so validated by certifying the amount thereof in the manner prescribed in RCW 28A.535.070: PROVIDED, Such enlarged district may pay a part, or all, of such validating indebtedness from any funds available or by issuing bonds therefor when such enlarged district has taken over property of any district and in making such adjustment and apportionment as provided in RCW 28A.315.010 through 28A.315.680 and 28A.315.900, the value of the property received shall be found to exceed the total indebtedness of the district annexed to the extent of such value over the total indebtedness of the district annexed. [1990 c 33 § 484; 1969 ex.s. c 223 § 28A.52.080. Prior: 1913 c 136 § 1; RRS § 4964. Formerly RCW 28A.52.080, 28.52.080.]

Chapter 28A.540

CAPITAL FUND AID BY NONHIGH SCHOOL DISTRICTS

Sections

28A.540.010	High school facilities defined.
28A.540.020	Plan for nonhigh district to provide capital funds in aid of high school district.
28A.540.030	Factors to be considered in preparation of plan.
28A.540.040	Public hearing—Notice.
28A.540.050	Review by state board—Approval—Revised plan.
28A.540.060	Bond, excess levy, elections—Use of proceeds.
28A.540.070	Rejection by voters of nonhigh districts—Additional elections—Revised plan—Annexation proposal.
28A.540.080	Failure of nonhigh districts to submit proposal to vote within time limits—Annexation procedure.
28A.540.090	Nonhigh districts, time of levy and issuance of bonds.
28A.540.100	Validation of proceedings under 1955 act, when.
28A.540.110	Designation of high school district nonhigh district students shall attend—Effect when attendance otherwise.

28A.540.010 High school facilities defined. High school facilities shall mean buildings for occupancy by grades nine through twelve and equipment and furniture for

such buildings and shall include major alteration or major remodeling of buildings and the acquisition of new sites and of additions to existing sites, and improvement of sites but only when included as a part of a general plan for the construction, equipping and furnishing of a building or of an alteration or addition to a building. The term shall also (1) include that portion of any building, alteration, equipment, furniture, site and improvement of site allocated to grade nine when included in a plan for facilities to be occupied by grades seven through nine and (2) includes such facilities for grades seven and eight when included in a plan as aforesaid, if the regional committee on school district organization finds that students of these grades who reside in any nonhigh school districts involved are now attending school in the high school district involved under an arrangement which likely will be continued. [1985 c 385 § 31; 1969 ex.s. c 223 § 28A.56.005. Prior: 1959 c 262 § 2. Formerly RCW 28A.56.005, 28.56.005.]

Severability—1985 c 385: See note following RCW 28A.315.020.

28A.540.020 Plan for nonhigh district to provide capital funds in aid of high school district. Upon receipt of a written request from the board of directors of a high school district or a nonhigh school district that presents to the regional committee on school district organization satisfactory evidence of a need for high school facilities to be located therein and of ability to provide such facilities, the regional committee shall prepare a plan for participation by any nonhigh school district or districts in providing capital funds to pay the costs of such school facilities and equipment to be provided for the education of students residing in the school districts. Prior to submission of the aforesaid request the board of directors of the school district concerned therewith shall determine the nature and extent of the high school facilities proposed to be provided, the approximate amount of local capital funds required to pay the cost thereof, and the site or sites upon which the proposed facilities are to be located, and shall submit a report thereon to the regional committee along with the aforesaid request. [1985 c 385 § 32; 1969 ex.s. c 223 § 28A.56.010. Prior: 1959 c 262 § 1; 1955 c 344 § 1; 1953 c 229 § 1. Formerly RCW 28A.56.010, 28.56.010.]

Severability—1985 c 385: See note following RCW 28A.315.020.

28A.540.030 Factors to be considered in preparation of plan. The regional committee on school district organization shall give consideration to:

(1) The report submitted by the board of directors as stated above;

(2) The exclusion from the plan of nonhigh school districts because of remoteness or isolation or because they are so situated with respect to location, present and/or clearly foreseeable future population, and other pertinent factors as to warrant the establishment of a high school therein within a period of two years or the inclusion of their territory in some other nonhigh school district within which the establishment of a high school within a period of two years is warranted;

(3) The assessed valuation of the school districts involved;

(4) The cash balance, if any, in the capital projects fund of the district submitting the request which is designated for high school building construction purposes, together with the sources of such balance; and

(5) Any other factors found by the committee to have a bearing on the preparation of an equitable plan. [1985 c 385 § 33; 1985 c 7 § 91; 1969 ex.s. c 223 § 28A.56.020. Prior: 1959 c 262 § 3; 1955 c 344 § 2; 1953 c 229 § 2. Formerly RCW 28A.56.020, 28.56.020.]

Severability—1985 c 385: See note following RCW 28A.315.020.

28A.540.040 Public hearing—Notice. The regional committee on school district organization shall also hold a public hearing or hearings on any proposed plan: PROVIDED, That three members of the committee or two members of the committee and the educational service district superintendent, or his or her designee, may be designated by the committee to hold such public hearing or hearings and to submit a report thereof to the regional committee. The regional committee shall cause to be posted, at least ten days prior to the date appointed for any such hearing, a written or printed notice thereof in at least three prominent and public places in the school districts involved and at the place of hearing. [1985 c 385 § 34; 1975 1st ex.s. c 275 § 74; 1971 c 48 § 21; 1969 ex.s. c 223 § 28A.56.030. Prior: 1959 c 262 § 4; 1955 c 344 § 3; 1953 c 229 § 3. Formerly RCW 28A.56.030, 28.56.030.]

Severability—1985 c 385: See note following RCW 28A.315.020.

Severability—1971 c 48: See note following RCW 28A.305.040.

28A.540.050 Review by state board—Approval—Revised plan. Subsequent to the holding of a hearing or hearings as provided in RCW 28A.540.040, the regional committee on school district organization shall determine the nonhigh school districts to be included in the plan and the amount of capital funds to be provided by every school district included therein, and shall submit the proposed plan to the state board of education together with such maps and other materials pertaining thereto as the state board may require. The state board shall review such plan, shall approve any plan which in its judgment makes adequate and satisfactory provision for participation by the nonhigh school districts in providing capital funds to be used for the purpose above stated, and shall notify the regional committee of such action. Upon receipt by the regional committee of such notification, the educational service district superintendent, or his or her designee, shall notify the board of directors of each school district included in the plan, supplying each board with complete details of the plan and shall state the total amount of funds to be provided and the amount to be provided by each district.

If any such plan submitted by a regional committee is not approved by the state board, the regional committee shall be so notified, which notification shall contain a statement of reasons therefor and suggestions for revision. Within sixty days thereafter the regional committee shall submit to the state board a revised plan which revision shall be subject to approval or disapproval by the state board and the procedural requirements and provisions of law applicable to an original plan submitted to said board. [1990 c 33 § 485; 1985 c 385 § 35; 1975 1st ex.s. c 275 § 75; 1971 c 48 § 22; 1969 ex.s.

c 223 § 28A.56.040. Prior: 1959 c 262 § 5; 1955 c 344 § 4; 1953 c 229 § 4. Formerly RCW 28A.56.040, 28.56.040.]

Severability—1985 c 385: See note following RCW 28A.315.020.

Severability—1971 c 48: See note following RCW 28A.305.040.

28A.540.060 Bond, excess levy, elections—Use of proceeds. Within sixty days after receipt of the notice of approval from the educational service district superintendent, the board of directors of each school district included in the plan shall submit to the voters thereof a proposal or proposals for providing, through the issuance of bonds and/or the authorization of an excess tax levy, the amount of capital funds that the district is required to provide under the plan. The proceeds of any such bond issue and/or excess tax levy shall be credited to the capital projects fund of the school district in which the proposed high school facilities are to be located and shall be expended to pay the cost of high school facilities for the education of such students residing in the school districts as are included in the plan and not otherwise. [1985 c 7 § 92; 1975 1st ex.s. c 275 § 76; 1971 c 48 § 23; 1969 ex.s. c 223 § 28A.56.050. Prior: 1959 c 262 § 6; 1955 c 344 § 5; 1953 c 229 § 5. Formerly RCW 28A.56.050, 28.56.050.]

Severability—1971 c 48: See note following RCW 28A.305.040.

28A.540.070 Rejection by voters of nonhigh districts—Additional elections—Revised plan—Annexation proposal. In the event that a proposal or proposals for providing capital funds as provided in RCW 28A.540.060 is not approved by the voters of a nonhigh school district a second election thereon shall be held within sixty days thereafter. If the vote of the electors of the nonhigh school district is again in the negative, the high school students residing therein shall not be entitled to admission to the high school under the provisions of RCW 28A.225.210, following the close of the school year during which the second election is held: PROVIDED, That in any such case the regional committee on school district organization shall determine within thirty days after the date of the aforesaid election the advisability of initiating a proposal for annexation of such nonhigh school district to the school district in which the proposed facilities are to be located or to some other district where its students can attend high school without undue inconvenience: PROVIDED FURTHER, That pending such determination by the regional committee and action thereon as required by law the board of directors of the high school district shall continue to admit high school students residing in the nonhigh school district. Any proposal for annexation of a nonhigh school district initiated by a regional committee shall be subject to the procedural requirements of this chapter respecting a public hearing and submission to and approval by the state board of education. Upon approval by the state board of any such proposal, the educational service district superintendent shall make an order, establishing the annexation. [1990 c 33 § 486; 1985 c 385 § 36; 1975 1st ex.s. c 275 § 77; 1971 c 48 § 24; 1969 ex.s. c 223 § 28A.56.060. Prior: 1959 c 262 § 7; 1955 c 344 § 6; 1953 c 229 § 6. Formerly RCW 28A.56.060, 28.56.060.]

Severability—1985 c 385: See note following RCW 28A.315.020.

Severability—1971 c 48: See note following RCW 28A.305.040.

28A.540.080 Failure of nonhigh districts to submit proposal to vote within time limits—Annexation procedure. In case of failure or refusal by a board of directors of a nonhigh school district to submit a proposal or proposals to a vote of the electors within the time limit specified in RCW 28A.540.060 and 28A.540.070, the regional committee on school district reorganization may initiate a proposal for annexation of such nonhigh school district as provided for in RCW 28A.540.070. [1990 c 33 § 487; 1985 c 385 § 37; 1969 ex.s. c 223 § 28A.56.070. Prior: 1959 c 262 § 8; 1955 c 344 § 7; 1953 c 229 § 7. Formerly RCW 28A.56.070, 28.56.070.]

Severability—1985 c 385: See note following RCW 28A.315.020.

28A.540.090 Nonhigh districts, time of levy and issuance of bonds. If the voters of a nonhigh school district approve an excess tax levy, the levy shall be made at the earliest time permitted by law. If the voters of a nonhigh school district approve the issuance of bonds, the board of directors of the nonhigh school district shall issue and sell said bonds within ninety days after receiving a copy of a resolution of the board of directors of the high school district that the high school district is ready to proceed with the construction of the high school facilities provided for in the plan and requesting the sale of the bonds. [1969 ex.s. c 223 § 28A.56.075. Prior: 1959 c 262 § 9. Formerly RCW 28A.56.075, 28.56.075.]

28A.540.100 Validation of proceedings under 1955 act, when. All proceedings had and taken under chapter 344, Laws of 1955, shall be valid and binding although not in compliance with that act if said proceedings comply with the requirements of this chapter. [1969 ex.s. c 223 § 28A.56.170. Prior: 1959 c 262 § 11. Formerly RCW 28A.56.170, 28.56.170.]

28A.540.110 Designation of high school district nonhigh district students shall attend—Effect when attendance otherwise. (1) In cases where high school students resident in a nonhigh school district are to be educated in a high school district, the board of directors of the nonhigh school district shall, by mutual agreement with the serving district(s), designate the serving high school district or districts which its high school students shall attend. A nonhigh school district shall designate a district as a serving high school district when more than thirty-three and one-third percent of the high school students residing within the boundaries of the nonhigh school district are enrolled in the serving district.

(2) Students residing in a nonhigh school district shall be allowed to attend a high school other than in the designated serving district referred to in subsection (1) of this section, however the nonhigh school board of directors shall not be required to contribute to building programs in any such high school district. Contribution shall be made only to those districts which are designated as serving high school districts at the time the county auditor is requested by the high school district to place a measure on the ballot regarding a proposal or proposals for the issuance of bonds or the authorization of an excess tax levy to provide capital funds for building programs. The nonhigh school district shall be

subject to the capital fund aid provisions contained in this chapter with respect to the designated high school serving district(s). [1989 c 321 § 4; 1981 c 239 § 1. Formerly RCW 28A.56.200.]

Chapter 28A.545

PAYMENT TO HIGH SCHOOL DISTRICTS

Sections

28A.545.010	School district divisions—High and nonhigh.
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28A.545.030	Purposes.
28A.545.040	"Student residing in a nonhigh school district" defined.
28A.545.050	Amounts due from nonhigh districts.
28A.545.060	Enrollment data for computation of amounts due.
28A.545.070	Superintendent's annual determination of estimated amount due—Process.
28A.545.080	Estimated amount due paid in May and November installments.
28A.545.090	Assessing nonhigh school lesser amount—Notice of.
28A.545.100	Amount due reflects cost of education and transportation of students.
28A.545.110	Rules to effect purposes and implement provisions.

Exemptions: State Constitution Art. 7 § 1 (Amendment 14).

28A.545.010 School district divisions—High and nonhigh. For the purposes of this chapter all school districts in the state of Washington shall be and the same are hereby divided into two divisions to be known and designated respectively as high school districts and nonhigh school districts. [1983 c 3 § 31; 1969 ex.s. c 223 § 28A.44.045. Prior: 1917 c 21 § 1; RRS § 4710. Formerly RCW 28A.44.045, 28.44.045, 28.01.040, part.]

28A.545.020 Reimbursement not a tuition charge. The reimbursement of a high school district for cost of educating high school pupils for a nonhigh school district, as provided for in this chapter, shall not be deemed a tuition charge as affecting the apportionment of current state school funds. [1983 c 3 § 32; 1969 ex.s. c 223 § 28A.44.095. Prior: 1917 c 21 § 11; RRS § 4720. Formerly RCW 28A.44.095, 28.44.095.]

28A.545.030 Purposes. The purposes of RCW 28A.545.030 through 28A.545.110 and 84.52.0531 are to:

(1) Simplify the annual process of determining and paying the amounts due by nonhigh school districts to high school districts for educating students residing in a nonhigh school district;

(2) Provide for a payment schedule that coincides to the extent practicable with the ability of nonhigh school districts to pay and the need of high school districts for payment; and

(3) Establish that the maximum amount due per annual average full-time equivalent student by a nonhigh school district for each school year is no greater than the maintenance and operation excess tax levy rate per annual average full-time equivalent student levied upon the taxpayers of the high school district. [1990 c 33 § 488; 1981 c 264 § 1. Formerly RCW 28A.44.150.]

Severability—1981 c 264: "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." [1981 c 264 § 13.]

28A.545.040 "Student residing in a nonhigh school district" defined. The term "student residing in a nonhigh school district" and its equivalent as used in RCW 28A.545.030 through 28A.545.110 and 84.52.0531 shall mean any handicapped or nonhandicapped common school age person who resides within the boundaries of a nonhigh school district that does not conduct the particular kindergarten through grade twelve grade which the person has not yet successfully completed and is eligible to enroll in. [1990 c 33 § 489; 1981 c 264 § 2. Formerly RCW 28A.44.160.]

Severability—1981 c 264: See note following RCW 28A.545.030.

28A.545.050 Amounts due from nonhigh districts. Each year at such time as the superintendent of public instruction determines and certifies such maximum allowable amounts of school district levies under RCW 84.52.0531 he or she shall also:

(1) Determine the extent to which the estimated amounts due by nonhigh school districts for the previous school year exceeded or fell short of the actual amounts due; and

(2) Determine the estimated amounts due by nonhigh school districts for the current school year and increase or decrease the same to the extent of overpayments or underpayments for the previous school year. [1985 c 341 § 11; 1981 c 264 § 3. Formerly RCW 28A.44.170.]

Severability—1981 c 264: See note following RCW 28A.545.030.

28A.545.060 Enrollment data for computation of amounts due. The student enrollment data necessary for the computation of the annual amounts due by nonhigh school districts pursuant to RCW 28A.545.030 through 28A.545.110 and 84.52.0531 shall be established as follows:

(1) On or before July tenth preceding the school year, or such other date as may be established by the superintendent of public instruction, each high school district superintendent shall certify to the superintendent of public instruction:

(a) The estimated number of students residing in a nonhigh school district that will be enrolled in the high school district during the school year which estimate has been mutually agreed upon by the high school district superintendent and the superintendent of each nonhigh school district in which one or more of such students resides;

(b) The total estimated number of kindergarten through twelfth grade annual average full-time equivalent students, inclusive of nonresident students, that will be enrolled in the high school district during the school year;

(c) The actual number of annual average full-time equivalent students provided for in subsections (1)(a) and (b) of this section that were enrolled in the high school district during the regular school term just completed; and

(d) The name, address, and the school district and county of residence of each student residing in a nonhigh school district reported pursuant to this subsection (1), to the extent the same can reasonably be established.

(2) In the event the superintendents of a high school district and a nonhigh school district are unable to reach agreement respecting the estimated number of annual average full-time equivalent students residing in the nonhigh school district that will be enrolled in the high school district during the school year, the estimate shall be established by

the superintendent of public instruction. [1990 c 33 § 490; 1981 c 264 § 4. Formerly RCW 28A.44.180.]

Severability—1981 c 264: See note following RCW 28A.545.030.

28A.545.070 Superintendent's annual determination of estimated amount due—Process. (1) The superintendent of public instruction shall annually determine the estimated amount due by a nonhigh school district to a high school district for the school year as follows:

(a) The total of the high school district's maintenance and operation excess tax levy that has been authorized and determined by the superintendent of public instruction to be allowable pursuant to RCW 84.52.0531, as now or hereafter amended, for collection during the next calendar year, shall first be divided by the total estimated number of annual average full-time equivalent students which the high school district superintendent or the superintendent of public instruction has certified pursuant to RCW 28A.545.060 will be enrolled in the high school district during the school year;

(b) The result of the calculation provided for in subsection (1)(a) of this section shall then be multiplied by the estimated number of annual average full-time equivalent students residing in the nonhigh school district that will be enrolled in the high school district during the school year which has been established pursuant to RCW 28A.545.060; and

(c) The result of the calculation provided for in subsection (1)(b) of this section shall be adjusted upward to the extent the estimated amount due by a nonhigh school district for the prior school year was less than the actual amount due based upon actual annual average full-time equivalent student enrollments during the previous school year and the actual per annual average full-time equivalent student maintenance and operation excess tax levy rate for the current tax collection year, of the high school district, or adjusted downward to the extent the estimated amount due was greater than such actual amount due or greater than such lesser amount as a high school district may have elected to assess pursuant to RCW 28A.545.090.

(2) The amount arrived at pursuant to subsection (1)(c) of this subsection shall constitute the estimated amount due by a nonhigh school district to a high school district for the school year. [1990 c 33 § 491; 1981 c 264 § 5. Formerly RCW 28A.44.190.]

Severability—1981 c 264: See note following RCW 28A.545.030.

28A.545.080 Estimated amount due paid in May and November installments. The estimated amounts due by nonhigh school districts as determined pursuant to RCW 28A.545.070 shall be paid in two installments. During the month of May of the school year for which the amount is due, each nonhigh school district shall pay to each high school district fifty percent of the total estimated amount due to the high school district for the school year as determined by the superintendent of public instruction pursuant to RCW 28A.545.070. The remaining fifty percent shall be paid by each nonhigh school district to each high school district during the following November. [1990 c 33 § 492; 1981 c 264 § 6. Formerly RCW 28A.44.200.]

Severability—1981 c 264: See note following RCW 28A.545.030.

28A.545.090 Assessing nonhigh school lesser amount—Notice of. Notwithstanding any provision of RCW 28A.545.050 through 28A.545.080 to the contrary, any high school district board of directors may elect to assess a nonhigh school district an amount which is less than that otherwise established by the superintendent of public instruction pursuant to RCW 28A.545.070 to be due. In the event a high school district elects to do so, it shall notify both the superintendent of public instruction and the nonhigh school district of its election and the lesser amount no later than September first following the school year for which the amount is due. In the absence of such notification, each nonhigh school district shall pay the amount otherwise established by the superintendent of public instruction pursuant to RCW 28A.545.070. [1990 c 33 § 493; 1981 c 264 § 7. Formerly RCW 28A.44.210.]

Severability—1981 c 264: See note following RCW 28A.545.030.

28A.545.100 Amount due reflects cost of education and transportation of students. Unless otherwise agreed to by the board of directors of a nonhigh school district, the amounts which are established as due by a nonhigh school district pursuant to RCW 28A.545.030 through 28A.545.110 and 84.52.0531, as now or hereafter amended, shall constitute the entire amount which is due by a nonhigh school district for the school year for the education of any and all handicapped and nonhandicapped students residing in the nonhigh school district who attend a high school district pursuant to RCW 28A.225.210, and for the transportation of such students by a high school district. [1990 c 33 § 494; 1983 1st ex.s. c 61 § 7; 1981 c 264 § 8. Formerly RCW 28A.44.220.]

Severability—1983 1st ex.s. c 61: See note following RCW 28A.160.010.

Severability—1981 c 264: See note following RCW 28A.545.030.

28A.545.110 Rules to effect purposes and implementation provisions. The superintendent of public instruction is hereby empowered to adopt rules pursuant to chapter 34.05 RCW, as now or hereafter amended, deemed necessary or advisable by the superintendent to effect the purposes and implement the provisions of RCW 28A.545.030 through 28A.545.110 and 84.52.0531. [1990 c 33 § 495; 1981 c 264 § 9. Formerly RCW 28A.44.230.]

Severability—1981 c 264: See note following RCW 28A.545.030.

Chapter 28A.600 STUDENTS

Sections

28A.600.010	Government of schools, pupils, employees, rules and regulations for—Due process guarantees—Enforcement.
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28A.600.475	Exchange of information with law enforcement and juvenile court officials—Notification of parents and students.

Uniform minor student capacity to borrow act: Chapter 26.30 RCW.

28A.600.010 Government of schools, pupils, employees, rules and regulations for—Due process guarantees—Enforcement. Every board of directors, unless otherwise specifically provided by law, shall:

(1) Enforce the rules and regulations prescribed by the superintendent of public instruction and the state board of education for the government of schools, pupils, and certificated employees.

(2) Adopt and make available to each pupil, teacher and parent in the district reasonable written rules and regulations regarding pupil conduct, discipline, and rights, including but not limited to short-term and long-term suspensions. Such rules and regulations shall not be inconsistent with law or the rules and regulations of the superintendent of public instruction or the state board of education and shall include such substantive and procedural due process guarantees as prescribed by the state board of education under RCW 28A.305.160. Commencing with the 1976-77 school year, when such rules and regulations are made available to each pupil, teacher and parent, they shall be accompanied by a detailed description of rights, responsibilities and authority of teachers and principals with respect to the discipline of pupils as prescribed by state statutory law, superintendent of public instruction and state board of education rules and regulations and rules and regulations of the school district.

For the purposes of this subsection, computation of days included in "short-term" and "long-term" suspensions shall be determined on the basis of consecutive school days.

(3) Suspend, expel, or discipline pupils in accordance with RCW 28A.305.160. [1990 c 33 § 496; 1979 ex.s. c 173 § 2; 1975-'76 2nd ex.s. c 97 § 2; 1975 1st ex.s. c 254 § 1; 1971 ex.s. c 268 § 1; 1969 ex.s. c 223 § 28A.58.101. Prior: 1969 c 53 § 1, part; 1967 ex.s. c 29 § 1, part; 1967 c 12 § 1, part; 1965 ex.s. c 49 § 1, part; 1963 c 104 § 1, part; 1963 c 5 § 1, part; 1961 c 305 § 1, part; 1961 c 237 § 1, part; 1961 c 66 § 1, part; 1955 c 68 § 2, part. Formerly RCW 28A.58.101, 28.58.100(2), (6).]

Severability—1975 1st ex.s. c 254: See note following RCW 28A.410.120.

28A.600.020 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.600.010 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

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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.400.110, 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. [1990 c 33 § 497; 1980 c 171 § 1; 1972 ex.s. c 142 § 5. Formerly RCW 28A.58.1011.]

28A.600.030 Grading policies—Option to consider attendance. Each school district board of directors may establish student grading policies which permit teachers to consider a student's attendance in determining the student's overall grade or deciding whether the student should be granted or denied credit. Such policies shall take into consideration the circumstances pertaining to the student's inability to attend school. However, no policy shall be adopted whereby a grade shall be reduced or credit shall be denied for disciplinary reasons only, rather than for academic reasons, unless due process of law is provided as set forth by the state board of education under RCW 28A.305.160. [1990 c 33 § 498; 1984 c 278 § 7. Formerly RCW 28A.58.195.]

Severability—1984 c 278: See note following RCW 28A.185.010.

28A.600.040 Pupils to comply with rules and regulations. All pupils who attend the common schools shall comply with the rules and regulations established in pursuance of the law for the government of the schools, shall pursue the required course of studies, and shall submit to the authority of the teachers of such schools, subject to such disciplinary or other action as the local school officials shall determine. [1969 ex.s. c 223 § 28A.58.200. Prior: 1909 c 97 p 263 § 6; RRS § 4690; prior: 1897 c 118 § 69; 1890 p 372 § 48. Formerly RCW 28A.58.200, 28.58.200.]

28A.600.050 State honors awards program established—Purpose. The Washington state honors awards program is hereby established for the purpose of promoting academic achievement among high school students enrolled in public or approved private high schools by recognizing outstanding achievement of students in academic core subjects. This program shall be voluntary on the part of each school district and each student enrolled in high school. [1985 c 62 § 1. Formerly RCW 28A.03.440.]

State scholars' program: RCW 28A.600.100 through 28A.600.150.

28A.600.060 State honors awards program—Areas included. The recipients of the Washington state honors awards shall be selected based on student achievement in both verbal and quantitative areas, as measured by a test or

tests of general achievement selected by the superintendent of public instruction, and shall include student performance in the academic core areas of English, mathematics, science, social studies, and foreign language. The performance level in such academic core subjects shall be determined by grade point averages, numbers of credits earned, and courses enrolled in during the beginning of the senior year. [1991 c 116 § 22; 1985 c 62 § 2. Formerly RCW 28A.03.442.]

28A.600.070 State honors awards program—Rules.

The superintendent of public instruction shall adopt rules for the establishment and administration of the Washington state honors awards program. The rules shall establish: (1) The test or tests of general achievement that are used to measure verbal and quantitative achievement, (2) academic subject performance levels, (3) timelines for participating school districts to notify students of the opportunity to participate, (4) procedures for the administration of the program, and (5) the procedures for providing the appropriate honors award designation. [1991 c 116 § 23; 1985 c 62 § 3. Formerly RCW 28A.03.444.]

28A.600.080 State honors awards program—Materials—Recognition by business and industry encouraged. The superintendent of public instruction shall provide participating high schools with the necessary materials for conferring honors. The superintendent of public instruction shall require participating high schools to encourage local representatives of business and industry to recognize students in their communities who receive an honors designation based on the Washington state honors awards program. [1985 c 62 § 4. Formerly RCW 28A.03.446.]

28A.600.100 State scholars' program—Purpose.

Each year high schools in the state of Washington graduate a significant number of students who have distinguished themselves through outstanding academic achievement. The purpose of RCW 28A.600.100 through 28A.600.150 is to establish a consistent and uniform program which will recognize and honor the accomplishments of these students; encourage and facilitate privately funded scholarship awards among them; stimulate the recruitment of outstanding students to Washington public and private colleges and universities; and allow educational and legislative leaders, as well as the governor, to reaffirm the importance of educational excellence to the future of this state. [1990 c 33 § 499; 1985 c 341 § 14; 1981 c 54 § 1. Formerly RCW 28A.58.820.]

Severability—1981 c 54: "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." [1981 c 54 § 10.]

State honors awards program: RCW 28A.600.050 through 28A.600.080.

Waiver of tuition and fees for recipients of the Washington scholars award: RCW 28B.15.543.

28A.600.110 State scholars' program—Established—Scope. There is established by the legislature of the state of Washington the Washington state scholars program. The purposes of this program annually are to:

(1) Provide for the selection of three seniors graduating from high schools in each legislative district who have distinguished themselves academically among their peers.

(2) Maximize public awareness of the academic achievement, leadership ability, and community contribution of Washington state public and private high school seniors through appropriate recognition ceremonies and events at both the local and state level.

(3) Provide a listing of the Washington scholars to all Washington state public and private colleges and universities to facilitate communication regarding academic programs and scholarship availability.

(4) Make available a state level mechanism for utilization of private funds for scholarship awards to outstanding high school seniors.

(5) Provide, on written request and with student permission, a listing of the Washington scholars to private scholarship selection committees for notification of scholarship availability.

(6) Permit a waiver of tuition and services and activities fees as provided for in RCW 28B.15.543 and grants under RCW 28B.80.245. [1988 c 210 § 4; 1987 c 465 § 1; 1981 c 54 § 2. Formerly RCW 28A.58.822.]

Severability—1981 c 54: See note following RCW 28A.600.100.

28A.600.120 State scholars' program—Administration—Cooperation with other agencies. The higher education coordinating board shall have the responsibility for administration of the Washington scholars program. The program will be developed cooperatively with the Washington association of secondary school principals, a voluntary professional association of secondary school principals. The cooperation of other state agencies and private organizations having interest and responsibility in public and private education shall be sought for planning assistance. [1985 c 370 § 32; 1981 c 54 § 3. Formerly RCW 28A.58.824.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability—1981 c 54: See note following RCW 28A.600.100.

28A.600.130 State scholars' program—Planning committee—Composition—Duties. The higher education coordinating board shall establish a planning committee to develop criteria for screening and selection of the Washington scholars each year in accordance with RCW 28A.600.110(1). It is the intent that these criteria shall emphasize scholastic achievement but not exclude such criteria as leadership ability and community contribution in final selection procedures. The Washington scholars planning committee shall have members from selected state agencies and private organizations having an interest and responsibility in education, including but not limited to, the state board of education, the office of superintendent of public instruction, the council of presidents, the *state board for community college education, and the Washington friends of higher education. [1990 c 33 § 500; 1985 c 370 § 33; 1981 c 54 § 4. Formerly RCW 28A.58.826.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability—1981 c 54: See note following RCW 28A.600.100.

28A.600.140 State scholars' program—Principal's association to submit names to board. Each year on or before March 1st, the Washington association of secondary school principals shall submit to the higher education coordinating board the names of graduating senior high school students who have been identified and recommended to be outstanding in academic achievement by their school principals based on criteria to be established under RCW 28A.600.130. [1990 c 33 § 501; 1985 c 370 § 34; 1981 c 54 § 5. Formerly RCW 28A.58.828.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability—1981 c 54: See note following RCW 28A.600.100.

28A.600.150 State scholars' program—Selection and notification process—Certificates—Awards ceremony. Washington scholars annually shall be selected from among the students so identified. The higher education coordinating board shall notify the students so designated, their high school principals, the legislators of their respective districts, and the governor when final selections have been made.

The board, in conjunction with the governor's office, shall prepare appropriate certificates to be presented to the Washington scholars recipients. An awards ceremony at an appropriate time and place shall be planned by the board in cooperation with the Washington association of secondary school principals, and with the approval of the governor. [1985 c 370 § 35; 1981 c 54 § 6. Formerly RCW 28A.58.830.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability—1981 c 54: See note following RCW 28A.600.100.

28A.600.200 Interschool athletic and other extracurricular activities for students, regulation of—Delegation, conditions. Each school district board of directors is hereby granted and shall exercise the authority to control, supervise and regulate the conduct of interschool athletic activities and other interschool extracurricular activities of an athletic, cultural, social or recreational nature for students of the district. A board of directors may delegate control, supervision and regulation of any such activity to the Washington Interscholastic Activities Association or any other voluntary nonprofit entity and compensate such entity for services provided, subject to the following conditions:

(1) The voluntary nonprofit entity shall submit an annual report to the state board of education of student appeal determinations, assets, and financial receipts and disbursements at such time and in such detail as the state board shall establish by rule;

(2) The voluntary nonprofit entity shall not discriminate in connection with employment or membership upon its governing board, or otherwise in connection with any function it performs, on the basis of race, creed, national origin, sex or marital status;

(3) Any rules and policies applied by the voluntary nonprofit entity which govern student participation in any interschool activity shall be written and subject to the annual review and approval of the state board of education at such time as it shall establish;

(4) All amendments and repeals of such rules and policies shall be subject to the review and approval of the state board; and

(5) Such rules and policies shall provide for notice of the reasons and a fair opportunity to contest such reasons prior to a final determination to reject a student's request to participate in or to continue in an interschool activity. Any such decision shall be considered a decision of the school district conducting the activity in which the student seeks to participate or was participating and may be appealed pursuant to RCW 28A.645.010 through 28A.645.030. [1990 c 33 § 502; 1975-'76 2nd ex.s. c 32 § 1. Formerly RCW 28A.58.125.]

School buses, transport of general public to interscholastic activities—Limitations: RCW 28A.160.100.

28A.600.210 School locker searches—Findings. The legislature finds that illegal drug activity and weapons in schools threaten the safety and welfare of school children and pose a severe threat to the state educational system. School officials need authority to maintain order and discipline in schools and to protect students from exposure to illegal drugs, weapons, and contraband. Searches of school-issued lockers and the contents of those lockers is a reasonable and necessary tool to protect the interests of the students of the state as a whole. [1989 c 271 § 244. Formerly RCW 28A.67.300.]

Severability—1989 c 271: See note following RCW 9.94A.310.

28A.600.220 School locker searches—No expectation of privacy. No right nor expectation of privacy exists for any student as to the use of any locker issued or assigned to a student by a school and the locker shall be subject to search for illegal drugs, weapons, and contraband as provided in RCW 28A.600.210 through 28A.600.240. [1990 c 33 § 503; 1989 c 271 § 245. Formerly RCW 28A.67.310.]

Severability—1989 c 271: See note following RCW 9.94A.310.

28A.600.230 School locker searches—Authorization—Limitations. (1) A school principal, vice principal, or principal's designee may search a student, the student's possessions, and the student's locker, if the principal, vice principal, or principal's designee has reasonable grounds to suspect that the search will yield evidence of the student's violation of the law or school rules.

(2) Except as provided in subsection (3) of this section, the scope of the search is proper if the search is conducted as follows:

(a) The methods used are reasonably related to the objectives of the search; and

(b) Is not excessively intrusive in light of the age and sex of the student and the nature of the suspected infraction.

(3) A principal or vice principal or anyone acting under their direction may not subject a student to a strip search or body cavity search as those terms are defined in RCW

10.79.070. [1989 c 271 § 246. Formerly RCW 28A.67.320.]

Severability—1989 c 271: See note following RCW 9.94A.310.

28A.600.240 School locker searches—Notice and reasonable suspicion requirements. (1) In addition to the provisions in RCW 28A.600.230, the school principal, vice principal, or principal's designee may search all student lockers at any time without prior notice and without a reasonable suspicion that the search will yield evidence of any particular student's violation of the law or school rule.

(2) If the school principal, vice principal, or principal's designee, as a result of the search, develops a reasonable suspicion that a certain container or containers in any student locker contain evidence of a student's violation of the law or school rule, the principal, vice principal, or principal's designee may search the container or containers according to the provisions of RCW 28A.600.230(2). [1990 c 33 § 504; 1989 c 271 § 247. Formerly RCW 28A.67.330.]

Severability—1989 c 271: See note following RCW 9.94A.310.

28A.600.300 High school students' options—Definition. As used in RCW 28A.600.300 through 28A.600.390, community college means a public community college as defined in chapter 28B.50 RCW. [1990 1st ex.s. c 9 § 401.]

Finding—Severability—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

28A.600.310 High school students' options—Enrollment in community colleges and vocational-technical institutes—Transmittal of funds. (1) Eleventh and twelfth grade students or students who have not yet received a high school diploma or its equivalent and are eligible to be in the eleventh or twelfth grades may apply to a community college or vocational-technical institute to enroll in courses or programs offered by the community college or vocational-technical institute. If a community college or vocational-technical institute accepts a secondary school pupil for enrollment under this section, the community college or vocational-technical institute shall send written notice to the pupil, the pupil's school district, and the superintendent of public instruction within ten days of acceptance. The notice shall indicate the course and hours of enrollment for that pupil.

(2) The pupil's school district shall transmit to the community college or vocational-technical institute a sum not exceeding the amount of state funds under RCW 28A.150.260 generated by a full time equivalent student and in proportion to the number of hours of instruction the pupil receives at the community college or vocational-technical institute and at the high school. The community college or vocational-technical institute shall not require the pupil to pay any other fees. The funds received by the community college or vocational-technical institute from the school district shall not be deemed tuition or operating fees and may be retained by the community college or vocational-technical institute. A student enrolled under this subsection shall not be counted for the purpose of determining any enrollment restrictions imposed by the state on the community colleges. [1990 1st ex.s. c 9 § 402.]

Finding—Severability—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

28A.600.320 High school students' options—Information on enrollment. A school district shall provide general information about the program to all pupils in grades ten and eleven and the parents and guardians of those pupils. To assist the district in planning, a pupil shall inform the district of the pupil's intent to enroll in community college or a vocational-technical institute courses for credit. Students are responsible for applying for admission to the community college or vocational-technical institute. [1990 1st ex.s. c 9 § 403.]

Finding—Severability—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

28A.600.330 High school students' options—Maximum terms of enrollment for high school credit. A pupil who enrolls in a community college or a vocational-technical institute in grade eleven may not enroll in postsecondary courses under RCW 28A.600.300 through 28A.600.390 for high school credit and community college or vocational-technical institute credit for more than the equivalent of the course work for two academic years. A pupil who first enrolls in a community college or vocational-technical institute in grade twelve may not enroll in postsecondary courses under this section for high school credit and community college or vocational-technical institute credit for more than the equivalent of the course work for one academic year. [1990 1st ex.s. c 9 § 404.]

Finding—Severability—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

28A.600.340 High school students' options—Enrolled students not displaced. Once a pupil has been enrolled in a postsecondary course, program, or vocational-technical institute under this section, the pupil shall not be displaced by another student. [1990 1st ex.s. c 9 § 405.]

Finding—Severability—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

28A.600.350 High school students' options—Enrollment for secondary and postsecondary credit. A pupil may enroll in a course under RCW 28A.600.300 through 28A.600.390 for both high school credit and college level academic and vocational or vocational-technical institute credit. [1990 1st ex.s. c 9 § 406.]

Finding—Severability—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

28A.600.360 High school students' options—Enrollment in postsecondary institution—Determination of high school credits—Application toward graduation requirements. A school district shall grant academic credit to a pupil enrolled in a course for high school credit if the pupil successfully completes the course. If no comparable course is offered by the school district, the school district superintendent shall determine how many credits to award for the course. The determination shall be made in writing before the pupil enrolls in the course. The credits shall be applied toward graduation requirements and subject area

requirements. Evidence of the successful completion of each course in a community college or vocational-technical institute shall be included in the pupil's secondary school records and transcript. The transcript shall also note that the course was taken at a community college or vocational-technical institute. [1990 1st ex.s. c 9 § 407.]

Finding—Severability—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

28A.600.370 High school students' options—Postsecondary credit. Any state institution of higher education may award postsecondary credit for college level academic and vocational or vocational-technical institute courses successfully completed by a student while in high school and taken at a community college or vocational-technical institute. The state institution of higher education shall not charge a fee for the award of the credits. [1990 1st ex.s. c 9 § 408.]

Finding—Severability—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

28A.600.380 High school students' options—School district not responsible for transportation. Transportation to and from the community college or vocational-technical institute is not the responsibility of the school district. [1990 1st ex.s. c 9 § 409.]

Finding—Severability—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

28A.600.390 High school students' options—Rules. The superintendent of public instruction, the *state board for community college education, and the higher education coordinating board shall jointly develop and adopt rules governing RCW 28A.600.300 through 28A.600.380, if rules are necessary. The rules shall be written to encourage the maximum use of the program and shall not narrow or limit the enrollment options under RCW 28A.600.300 through 28A.600.380. [1990 1st ex.s. c 9 § 410.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Finding—Severability—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

28A.600.395 High school students' options—Program implementation. (1) RCW 28A.600.300 through 28A.600.390 may be implemented in up to five community college districts during the 1990-91 and 1991-92 school years. Any school district within any of the selected community college districts may participate in the program. The five community college districts shall be selected from applicants by the *state board for community college education. The board shall select community college districts from both eastern and western Washington. RCW 28A.600.300 through 28A.600.390 are applicable throughout the state beginning with the 1992-93 school year. Participation by community college districts under RCW 28A.600.300 through 28A.600.390 is in addition to agreements between school districts and community college districts in effect on April 11, 1990, and in the future.

(2) RCW 28A.600.300 through 28A.600.390 may be implemented in all vocational-technical institutes beginning

with the 1990-91 school year and shall be implemented in all vocational-technical institutes in the 1991-92 school year. [1990 1st ex.s. c 9 § 411.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Finding—Severability—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

28A.600.400 High school students' options—Existing agreements not affected. RCW 28A.600.300 through 28A.600.395 are in addition to and not intended to adversely affect agreements between school districts and community college districts or vocational-technical institutes in effect on April 11, 1990, and in the future. [1990 1st ex.s. c 9 § 412.]

Finding—Severability—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

28A.600.410 Alternatives to suspension—Encouraged. School districts are encouraged to find alternatives to suspension including reducing the length of a student's suspension conditioned by the commencement of counseling or other treatment services. Consistent with current law, the conditioning of a student's suspension does not obligate the school district to pay for the counseling or other treatment services except for those stipulated and agreed to by the district at the inception of the suspension. [1992 c 155 § 1.]

28A.600.415 Alternatives to suspension—Community service encouraged—Information provided to school districts. (1) The superintendent of public instruction shall encourage school districts to utilize community service as an alternative to student suspension. Community service shall include the provision of volunteer services by students in social and educational organizations including, but not limited to, hospitals, fire and police stations, nursing homes, food banks, day care organizations, and state and local government offices.

(2) At a minimum, by February 1, 1993, the superintendent shall prepare and distribute information to school districts regarding existing programs, the potential benefits and considerations of using community service as an alternative to suspension, and recommended guidelines for starting new programs. The superintendent also shall address, and attempt to clarify and resolve, any potential liability, supervision, and transportation issues associated with using community service as an alternative to suspension. [1992 c 155 § 2.]

28A.600.425 Fair start program—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 28A.600.425 through 28A.600.450.

(1) "Child intervention specialist" or "community-based public or private human service provider" means a person who provides early intervention and prevention services and includes but is not limited to services provided by licensed mental health professionals, child psychiatrists, health care providers, social service caseworkers or social workers,

school counselors, school psychologists, school nurses, and school social workers.

(2) "Early grades," "elementary grades," and "elementary level" mean kindergarten through grade six and may include preschool age children served by the school district.

(3) "Elementary grades prevention and intervention program" means a district-wide program or plan of early detection, prevention, and intervention of learning, emotional, environmental, social, or physical problems of elementary students, that addresses student and family needs; the appropriate use and roles of child intervention specialists, including training and necessary supervision; interprofessional cooperation; and interagency, public and private, collaboration and coordination of the planning, delivery, and evaluation of programs and services.

(4) "Early intervention services" means services that are provided to address social and emotional factors that can affect student performance and behavior and that are provided when problems just begin to emerge.

(5) "Prevention services" means services that are provided to address social and emotional factors that can affect student performance and behavior and that are provided to students before problems occur.

(6) "Superintendent" means the superintendent of public instruction. [1992 c 196 § 2.]

Findings—1992 c 196: "(1) A student's ability to learn can be adversely impacted by a number of factors, including but not limited to: Lack of parent involvement and support; child abuse and neglect; poverty, including parental unemployment or underemployment; family transiency and homelessness; drug and alcohol abuse; poor health and nutrition; crime; and peer influence.

(2) The legislature finds that:

(a) Prevention and intervention services at the elementary school level can offer early identification, encouragement, and follow-up of each child's special interests, creative talents, and particular abilities as well as identification of and cooperative assistance with learning, emotional, environmental, social, or physical obstacles to normal child growth and development; and

(b) The provision of counseling and related prevention and intervention services at the elementary school level can contribute to enhancement of the classroom environment for students and teachers, and better enable students to realize their academic and personal potential.

(c) [3] The legislature finds that services should be provided to the extent possible by public or private human service agencies." [1992 c 196 § 1.]

Severability—1992 c 196: "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." [1992 c 196 § 9.]

28A.600.430 Fair start program—Established—Distribution of funds—Cooperative administration by two or more school districts—Administration by educational service district. (1) From funds appropriated by the legislature, the superintendent shall establish the fair start program to assist school districts in providing prevention and intervention programs for elementary grade students. The fair start program shall not become a part of the state's basic program of education obligation as set forth under Article IX of the state Constitution.

(2) The superintendent shall distribute funds equitably to all school districts based on the district's enrollment in grades kindergarten through six. However, the allocations for school districts enrolling fewer than one thousand full-time equivalent students shall be distributed to the education-

al service district in which the district is located. The educational service district shall use the allocation to provide early intervention and prevention services under a cooperative agreement between the district and the educational service district. Educational service districts shall coordinate the use of staff and resources to serve school districts. Fair start funds shall not be used to replace funding for existing activities. However, any district currently providing elementary students with prevention and intervention services that loses the source of funding for those services, for reasons beyond the control of the district, may use fair start funds to continue or enhance the existing level of prevention and intervention services.

(3) Two or more school districts may cooperatively administer an elementary prevention and intervention program. An educational service district may administer a program on behalf of one or more school districts. [1992 c 196 § 3.]

Findings—Severability—1992 c 196: See notes following RCW 28A.600.425.

28A.600.435 Fair start program—Information required from districts accepting funds—Written interagency agreements. (1) School districts and educational service districts accepting fair start funds shall submit not later than June 1, 1993, the following information to the superintendent of public instruction:

(a) District goals relating to prevention and early intervention services for elementary students and the district's plan, based on the goals, for providing prevention and early intervention services to students. To ensure delivery of appropriate services to students through a coordinated network of service providers, districts shall document that community-based public and/or private human service providers, district-level and building-level staff and administrators, and parents participated in developing the goals and plan;

(b) Documentation of written interagency agreements or contracts between school and educational service districts, and public and/or private community-based human service providers to provide prevention and early intervention services to students;

(c) Procedures for notifying parents or guardians regarding the referral of students for prevention and intervention services and liability issues relating to the provision of prevention and intervention services to students outside school buildings;

(d) Use of grant funds for prevention and intervention-related inservice purposes, including as necessary and appropriate, multicultural in-service training; and

(e) Other information as requested by the superintendent.

(2) To the greatest extent possible, the delivery of prevention and early intervention services to students:

(a) Shall not be duplicative of other programs;

(b) Shall be consistent with the applicable children's mental health delivery system developed under chapter 71.36 RCW;

(c) Shall emphasize the most efficient and cost-effective use of fair start funds; and

(d) Shall be provided on a twelve-month basis.

(3) When using school personnel to provide prevention and intervention services, school districts are encouraged to utilize paraprofessionals.

(4) School districts and educational service districts accepting fair start funds shall enter into written interagency agreements with community-based public and/or private human service providers to assure delivery of appropriate services to students. [1992 c 196 § 4.]

Findings—Severability—1992 c 196: See notes following RCW 28A.600.425.

28A.600.440 Fair start program—Prevention and intervention services—Information regarding health care.

(1) Districts shall use fair start funds to provide prevention and intervention services to students with priority given to students based on need. Districts shall establish the criteria determining need.

(2) Funds from the fair start program regarding health care shall be used only for services and information relating to nutrition and poor health.

(3) Nothing under RCW 28A.600.425 through 28A.600.450 precludes a district from incorporating a primary intervention program model or a family support worker model as part of the district's fair start program. [1992 c 196 § 5.]

Findings—Severability—1992 c 196: See notes following RCW 28A.600.425.

28A.600.445 Fair start program—Rules. The superintendent of public instruction may adopt rules as necessary under chapter 34.05 RCW to implement RCW 28A.600.425 through 28A.600.450. [1992 c 196 § 6.]

Findings—Severability—1992 c 196: See notes following RCW 28A.600.425.

28A.600.450 Fair start program—Information to districts on use of funds or establishment of interagency agreements. Upon request, the superintendent shall provide information to districts regarding how other districts have used fair start funds locally or how other districts have established interagency agreements with community-based public and/or private human service providers under RCW 28A.600.435. [1992 c 196 § 7.]

Findings—Severability—1992 c 196: See notes following RCW 28A.600.425.

28A.600.475 Exchange of information with law enforcement and juvenile court officials—Notification of parents and students. School districts may participate in the exchange of information with law enforcement and juvenile court officials to the extent permitted by the family educational and privacy rights act of 1974, 20 U.S.C. Sec. 1232g. When directed by court order or pursuant to any lawfully issued subpoena, a school district shall make student records and information available to law enforcement officials, probation officers, court personnel, and others legally entitled to the information. Parents and students shall be notified by the school district of all such orders or subpoenas in advance of compliance with them. [1992 c 205 § 120.]

Part headings not law—Severability—1992 c 205: See notes following RCW 13.40.010.

**Chapter 28A.605
PARENT ACCESS**

Sections

28A.605.010	Removing child from school grounds during school hours—Procedure.
28A.605.020	Parents' access to classroom or school sponsored activities—Limitation.

28A.605.010 Removing child from school grounds during school hours—Procedure. The board of directors of each school district by rule or regulation shall set forth proper procedure to ensure that each school within their district is carrying out district policy providing that no child will be removed from any school grounds or building thereon during school hours except by a person so authorized by a parent or legal guardian having legal custody thereof: PROVIDED, That such rules and regulations need not be applicable to any child in grades nine through twelve. [1975 1st ex.s. c 248 § 1. Formerly RCW 28A.58.050.]

28A.605.020 Parents' access to classroom or school sponsored activities—Limitation. Every school district board of directors shall, after following established procedure, adopt a policy assuring parents access to their child's classroom and/or school sponsored activities for purposes of observing class procedure, teaching material, and class conduct: PROVIDED, That such observation shall not disrupt the classroom procedure or learning activity. [1979 ex.s. c 250 § 8. Formerly RCW 28A.58.053.]

Effective date—Severability—1979 ex.s. c 250: See notes following RCW 28A.150.220.

**Chapter 28A.610
PROJECT EVEN START**

Sections

28A.610.010	Intent—Short title.
28A.610.020	Definitions.
28A.610.030	Adult literacy program—Basic skills instruction—Credit toward work and training requirement—Rules.
28A.610.040	Preference for existing programs before developing new programs.
28A.610.050	Reports to legislature.
28A.610.060	Information about program—Duties of superintendent through state clearinghouse for education information.

28A.610.010 Intent—Short title. (1) Parents can be the most effective teachers for their children. Providing illiterate or semiliterate parents with opportunities to acquire basic skills and child development knowledge will enhance their ability to assist and support their children in the learning process, and will enhance children's learning experiences in the formal education environment by providing children with the motivation and positive home environment which contribute to enhanced academic performance.

(2) RCW 28A.610.020 through 28A.610.060 may be known and cited as project even start. [1990 c 33 § 505; 1987 c 518 § 104. Formerly RCW 28A.130.010.]

Intent—Severability—1987 c 518: See notes following RCW 28A.215.150.

28A.610.020 Definitions. Unless the context clearly requires otherwise, the definition in this section shall apply throughout RCW 28A.610.030 through 28A.610.060.

"Parent" or "parents" means a parent who has less than an eighth grade ability in one or more of the basic skill areas of reading, language arts, or mathematics, as measured by a standardized test, and who has a child or children enrolled in: (1) The state early childhood education and assistance program; (2) a federal head start program; (3) a state or federally funded elementary school basic skills program serving students who have scored below the national average on a standardized test in one or more of the basic skill areas of reading, language arts, or mathematics; or (4) a cooperative nursery school at a community college or vocational technical institute. [1990 c 33 § 506; 1987 c 518 § 105. Formerly RCW 28A.130.012.]

Intent—Severability—1987 c 518: See notes following RCW 28A.215.150.

28A.610.030 Adult literacy program—Basic skills instruction—Credit toward work and training requirement—Rules. (1) The superintendent of public instruction, in consultation with the department of community development, the department of social and health services, the *state board for community college education, and community-based, nonprofit providers of adult literacy services, shall develop an adult literacy program to serve eligible parents as defined under RCW 28A.610.020. The program shall give priority to serving parents with children who have not yet enrolled in school or are in grades kindergarten through three.

(2) In addition to providing basic skills instruction to eligible parents, the program may include other program components which may include transportation, child care, and such other directly necessary activities as may be necessary to accomplish the purposes of RCW 28A.610.020 through 28A.610.060.

(3) Parents who elect to participate in training or work programs, as a condition of receiving public assistance, shall have the hours spent in parent participation programs, conducted as part of a federal head start program, or the state early childhood education and assistance program under RCW 28A.215.100 through 28A.215.200 and 28A.215.900 through 28A.215.908, or parent literacy programs under RCW 28A.610.020 through 28A.610.060, counted toward the fulfillment of their work and training obligation for the receipt of public assistance.

(4) State funds as may be appropriated for project even start shall be used solely to expand and complement, but not supplant, federal funds for adult literacy programs.

(5) The superintendent of public instruction shall adopt rules as necessary to carry out the purposes of RCW 28A.610.020 through 28A.610.060. [1990 c 33 § 507; 1987 c 518 § 106. Formerly RCW 28A.130.014.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Intent—Severability—1987 c 518: See notes following RCW 28A.215.150.

28A.610.040 Preference for existing programs before developing new programs. The superintendent of public instruction is authorized and directed, whenever possible, to fund or cooperatively work with existing adult literacy programs and parenting related programs offered through the common school and community college systems, vocational-technical institutes, or community-based, nonprofit organizations to provide services for eligible parents before developing and funding new adult literacy programs to carry out the purposes of project even start. [1987 c 518 § 107. Formerly RCW 28A.130.016.]

Intent—Severability—1987 c 518: See notes following RCW 28A.215.150.

28A.610.050 Reports to legislature. The superintendent of public instruction shall evaluate and submit to the legislature by January 15, 1988, a report on the effectiveness of project even start. The initial report shall include, if appropriate, recommendations relating to the expansion of project even start. The superintendent shall submit a report to the legislature on project even start every two years after the initial report. [1987 c 518 § 108. Formerly RCW 28A.130.018.]

Intent—Severability—1987 c 518: See notes following RCW 28A.215.150.

28A.610.060 Information about program—Duties of superintendent through state clearinghouse for education information. The superintendent of public instruction, through the state clearinghouse for education information, shall collect and disseminate to all school districts and other interested parties information about effective parent literacy programs under project even start. [1987 c 518 § 109. Formerly RCW 28A.130.020.]

Intent—Severability—1987 c 518: See notes following RCW 28A.215.150.

Chapter 28A.615

SCHOOL INVOLVEMENT PROGRAMS

Sections

28A.615.050	Information about programs—Duties of superintendent through state clearinghouse for education information.
28A.615.060	Six-plus-sixty volunteer program—Grants—Advisory committee.

28A.615.050 Information about programs—Duties of superintendent through state clearinghouse for education information. The superintendent of public instruction, through the state clearinghouse for education information, shall collect and disseminate to all school districts and other interested parties information about effective school involvement programs. [1987 c 518 § 305. Formerly RCW 28A.58.648.]

Intent—Severability—1987 c 518: See notes following RCW 28A.215.150.

28A.615.060 Six-plus-sixty volunteer program—Grants—Advisory committee. (1) Senior citizens have a wealth of experience and knowledge which can be of value to the children of our state. To encourage the exchange of knowledge and experience between senior citizens and our children, the six-plus-sixty volunteer program is created. The purpose of the program is to encourage senior citizens to volunteer in our public schools.

(2) The superintendent of public instruction may grant funds to selected school districts for planning and implementation of a volunteer program utilizing senior citizens. The funds may be used to provide information on volunteer opportunities to the community, to schools, and to senior citizens and may also be used to provide training to the senior citizens who participate in the program. Funds may also be used to compensate volunteers for their transportation costs by paying mileage, providing transportation on school buses, and providing a school lunch.

(3) The superintendent shall appoint an advisory committee composed of certificated and noncertificated staff, administrators, senior citizens, and the state *center for voluntary action under chapter 43.150 RCW. The committee shall propose criteria to the superintendent to evaluate grant proposals for the six-plus-sixty volunteer program. [1989 c 310 § 1. Formerly RCW 28A.03.550.]

***Reviser's note:** The "center for voluntary action" was redesignated the "center for volunteerism and citizen service" by 1992 c 66 § 4.

Chapter 28A.620

COMMUNITY EDUCATION PROGRAMS

Sections

28A.620.010	Purposes.
28A.620.020	Restrictions—Classes on parenting skills and child abuse prevention encouraged.

28A.620.010 Purposes. The purposes of this section and RCW 28A.620.020 are to:

(1) Provide educational, recreational, cultural, and other community services and programs through the establishment of the concept of community education with the community school serving as the center for such activity;

(2) Promote a more efficient and expanded use of existing school buildings and equipment;

(3) Help provide personnel to work with schools, citizens and with other agencies and groups;

(4) Provide a wide range of opportunities for all citizens including programs, if resources are available, to promote parenting skills and promote awareness of the problem of child abuse and methods to avoid child abuse;

(5) As used in this section, "parenting skills" shall include: The importance of consistency in parenting; the value of providing children with a balance of love and firm discipline; the instruction of children in honesty, morality, ethics, and respect for the law; and the necessity of preserving and nurturing the family unit; and

(6) Help develop a sense of community in which the citizens cooperate with the public schools and community

agencies and groups to resolve their school and community concerns and to recognize that the schools are available for use by the community day and night, year-round or any time when the programming will not interfere with the preschool through grade twelve program. [1990 c 33 § 510. Prior: 1985 c 344 § 1; 1985 c 341 § 12; 1979 ex.s. c 120 § 1. Formerly RCW 28A.58.246.]

28A.620.020 Restrictions—Classes on parenting skills and child abuse prevention encouraged. Notwithstanding the provisions of RCW 28B.50.250, 28B.50.530 or any other law, rule, or regulation, any school district is authorized to provide community education programs in the form of instructional, recreational and/or service programs on a noncredit and nontuition basis, excluding fees for supplies, materials, or instructor costs, for the purpose of stimulating the full educational potential and meeting the needs of the district's residents of all ages, and making the fullest use of the district's school facilities: **PROVIDED**, That school districts are encouraged to provide programs for prospective parents, prospective foster parents, and prospective adoptive parents on parenting skills and on the problems of child abuse and methods to avoid child abuse situations: **PROVIDED FURTHER**, That community education programs shall be consistent with rules and regulations promulgated by the state superintendent of public instruction governing cooperation between common schools, community college districts, and other civic and governmental organizations which shall have been developed in cooperation with the *state board for community college education and shall be programs receiving the approval of said superintendent. [1985 c 344 § 2; 1979 ex.s. c 120 § 2; 1973 c 138 § 1. Formerly RCW 28A.58.247.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Chapter 28A.623

MEAL PROGRAMS

Sections

28A.623.010	Nonprofit program for elderly—Purpose.
28A.623.020	Nonprofit program for elderly—Authorized—Restrictions.
28A.623.030	Nonprofit program for certain children and students—Conditions and restrictions.

28A.623.010 Nonprofit program for elderly—Purpose. The legislature finds that many elderly persons suffer dietary deficiencies and malnutrition due to inadequate financial resources, immobility, lack of interest due to isolation and loneliness, and characteristics of the aging process, such as physiological, social, and psychological changes which result in a way of life too often leading to feelings of rejection, abandonment, and despair. There is a real need as a matter of public policy to provide the elderly citizens with adequate nutritionally sound meals, through which their isolation may be penetrated with the company and the social contacts of their own. It is the declared purpose of RCW 28A.235.120, 28A.623.010, and 28A.623.020 to raise the level of dignity of the aged population where their remaining years can be lived in a

fulfillment equal to the benefits they have bestowed, the richness they have added, and the great part they have played in the life of our society and nation. [1990 c 33 § 511; 1973 c 107 § 1. Formerly RCW 28A.58.720.]

28A.623.020 Nonprofit program for elderly—Authorized—Restrictions. The board of directors of any school district may establish or allow for the establishment of a nonprofit meal program for feeding elderly persons residing within the area served by such school district using school facilities, and may authorize the extension of any school food services for the purpose of feeding elderly persons, subject to the following conditions and restrictions:

(1) The charge to such persons for each meal shall not exceed the actual cost of such meal to the school.

(2) The program will utilize methods of administration which will assure that the maximum number of eligible individuals may have an opportunity to participate in such a program, and will coordinate, whenever possible, with the local area agency on aging.

(3) Any nonprofit meal program established pursuant to RCW 28A.235.120, 28A.623.010, and 28A.623.020 may not be operated so as to interfere with the normal educational process within the schools.

(4) No school district funds may be used for the operation of such a meal program.

(5) For purposes of RCW 28A.235.120, 28A.623.010, and 28A.623.020, "elderly persons" shall mean persons who are at least sixty years of age. [1990 c 33 § 512; 1973 c 107 § 3. Formerly RCW 28A.58.722.]

28A.623.030 Nonprofit program for certain children and students—Conditions and restrictions. The board of directors of any school district may establish or allow for the establishment of a nonprofit meal program using school facilities for feeding children who are participating in educational programs or activities conducted by private, nonprofit organizations and entities and students who are attending private elementary and secondary schools, and may authorize the extension of any school food services for the purpose of feeding such children and students, subject to the following conditions and restrictions:

(1) The charge to such persons, organizations, entities or schools for each meal shall be not less than the actual cost of such meal to the school, inclusive of a reasonable charge for overhead and the value of the use of the facilities.

(2) The meal program shall not be operated so as to interfere with the educational process within the school district.

(3) The meal program shall not be operated so as to impair or reduce the provision of food services to students of the school districts. [1979 c 58 § 2. Formerly RCW 28A.58.724.]

Severability—1979 c 58: "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." [1979 c 58 § 3.]

Chapter 28A.625

AWARDS

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EXCELLENCE IN EDUCATION

28A.625.010 Short title. RCW 28A.625.020 through *28A.625.070 and 28B.15.547 may be known and cited as the Washington award for excellence in education program act. [1990 c 33 § 513; 1986 c 147 § 1. Formerly RCW 28A.03.520.]

***Reviser's note:** RCW 28A.625.070 and 28B.15.547 were repealed by 1991 c 255 § 11.

Commendable employee service and recognition award program: RCW 28A.625.150.

28A.625.020 Recipients—Awards. The superintendent of public instruction shall establish an annual award program for excellence in education to recognize teachers, principals, administrators, classified staff, school district superintendents, and school boards for their leadership, contributions, and commitment to education. The program shall recognize annually:

(1) Five teachers from each congressional district of the state. One individual must be an elementary level teacher, one must be a junior high or middle school level teacher, and one must be a secondary level teacher. Teachers shall include educational staff associates;

- (2) Five principals or administrators from the state;
- (3) One school district superintendent from the state;
- (4) One school district board of directors from the state;

and

(5) Three classified staff from each congressional district of the state. [1991 c 255 § 1. Prior: 1990 c 77 § 1; 1990 c 33 § 514; 1989 c 75 § 1; 1988 c 251 § 1; 1987 1st ex.s. c 2 § 209; 1986 c 147 § 2. Formerly RCW 28A.03.523.]

Intent—Severability—Effective date—1987 1st ex.s. c 2: See notes following RCW 84.52.0531.

28A.625.030 Washington State Christa McAuliffe award for teachers. The award for teachers under the Washington award for excellence in education program shall be named the "Washington State Christa McAuliffe Award, in honor and memory of Sharon Christa Corrigan McAuliffe." As the first teacher and private citizen selected nationally to voyage into space, Christa McAuliffe exemplified what is exciting and positive about the teaching profession. Her contributions within the scope of the nation's education system helped to show that education can and should be a vital and dynamic experience for all participants. Christa McAuliffe's chosen profession encompasses learning by discovery and her desire to make new discoveries was reflected by her participation in the nation's space program.

The selection of Christa McAuliffe as the first teacher in space was directly linked to Washington state in that then superintendent of public instruction Dr. Frank Brouillet both appointed and served as a member of the national panel which selected Christa McAuliffe.

The tragic loss of the life of Christa McAuliffe on the flight of the space shuttle Challenger on January 28, 1986, will be remembered through the legacy she gave to her family, friends, relatives, students, colleagues, the education profession, and the nation: A model example of striving toward excellence. [1991 c 255 § 2; 1986 c 147 § 3. Formerly RCW 28A.03.526.]

28A.625.041 Certificates—Grants or stipends. (Effective until June 30, 1993.) (1) All recipients of the Washington award for excellence in education shall receive a certificate presented by the governor and the superintendent of public instruction, or their designated representatives, at a public ceremony or ceremonies in appropriate locations.

(2) In addition to certificates under subsection (1) of this section, awards for teachers and principals or administrators shall include one of the following:

(a) Except as provided under RCW 28B.80.255, an academic grant which shall be used to take courses at a state institution of higher education. The academic grant shall provide reimbursement to the recipient for actual costs incurred for tuition and fees for up to forty-five quarter credit hours or thirty semester credit hours at a rate of reimbursement per credit hour not to exceed the resident graduate, part-time cost per credit hour at the University of Washington in the year the recipient takes the credits. In addition, a stipend not to exceed one thousand dollars shall be provided for costs incurred in taking courses covered by the academic grant beginning with 1992 recipients, if funds are appropriated for the stipends in the omnibus appropria-

tions act. This stipend shall be provided as reimbursement for actual costs incurred. The academic grant shall not be considered compensation for the purposes of RCW 28A.400.200; or

(b) A recognition stipend not to exceed one thousand dollars. The recognition stipend shall not be considered compensation for the purposes of RCW 28A.400.200; or

(c) An educational grant not to exceed one thousand dollars. The educational grant shall be awarded under RCW 28A.625.060 and shall not be considered compensation for the purposes of RCW 28A.400.200.

(3) In addition to certificates under subsection (1) of this section, the award for the superintendent shall include one of the following:

(a) A recognition stipend not to exceed one thousand dollars. The recognition stipend shall not be considered compensation for the purposes of RCW 28A.400.200; or

(b) An educational grant not to exceed one thousand dollars. The educational grant shall be awarded under RCW 28A.625.060 and shall not be considered compensation for the purposes of RCW 28A.400.200.

(4) In addition to certificates under subsection (1) of this section, the award for the school board shall include an educational grant not to exceed two thousand five hundred dollars. The educational grant shall be awarded under RCW 28A.625.060.

(5) Within one year of receiving the Washington award for excellence in education, teachers, principals or administrators, and the school district superintendent shall notify the superintendent of public instruction in writing of their decision to apply for an academic grant, a recognition stipend, or an educational grant as provided under subsections (2) and (3) of this section. The superintendent shall notify the higher education coordinating board of those recipients who select the academic grant. [1992 c 83 § 1; 1991 c 255 § 3.]

Effective date—1992 c 83: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect April 30, 1992." [1992 c 83 § 6.]

28A.625.041 Certificates—Grants or stipends. (Effective June 30, 1993.) (1) All recipients of the Washington award for excellence in education shall receive a certificate presented by the governor and the superintendent of public instruction, or their designated representatives, at a public ceremony or ceremonies in appropriate locations.

(2) In addition to certificates under subsection (1) of this section, awards for teachers, classified employees, and principals or administrators shall include one of the following:

(a) Except as provided under RCW 28B.80.255, an academic grant which shall be used to take courses at a state institution of higher education. The academic grant shall provide reimbursement to the recipient for actual costs incurred for tuition and fees for up to forty-five quarter credit hours or thirty semester credit hours at a rate of reimbursement per credit hour not to exceed the resident graduate, part-time cost per credit hour at the University of Washington in the year the recipient takes the credits. In addition, a stipend not to exceed one thousand dollars shall be provided for costs incurred in taking courses covered by

the academic grant beginning with 1992 recipients, if funds are appropriated for the stipends in the omnibus appropriations act. This stipend shall be provided as reimbursement for actual costs incurred. The academic grant shall not be considered compensation for the purposes of RCW 28A.400.200; or

(b) A recognition stipend not to exceed one thousand dollars. The recognition stipend shall not be considered compensation for the purposes of RCW 28A.400.200; or

(c) An educational grant not to exceed one thousand dollars. The educational grant shall be awarded under RCW 28A.625.060 and shall not be considered compensation for the purposes of RCW 28A.400.200.

(3) In addition to certificates under subsection (1) of this section, the award for the superintendent shall include one of the following:

(a) A recognition stipend not to exceed one thousand dollars. The recognition stipend shall not be considered compensation for the purposes of RCW 28A.400.200; or

(b) An educational grant not to exceed one thousand dollars. The educational grant shall be awarded under RCW 28A.625.060 and shall not be considered compensation for the purposes of RCW 28A.400.200.

(4) In addition to certificates under subsection (1) of this section, the award for the school board shall include an educational grant not to exceed two thousand five hundred dollars. The educational grant shall be awarded under RCW 28A.625.060.

(5) Within one year of receiving the Washington award for excellence in education, teachers, classified employees, principals or administrators, and the school district superintendent shall notify the superintendent of public instruction in writing of their decision to apply for an academic grant, a recognition stipend, or an educational grant as provided under subsections (2) and (3) of this section. The superintendent shall notify the higher education coordinating board of those recipients who select the academic grant. [1992 c 83 § 1; 1992 c 50 § 1; 1991 c 255 § 3.]

Reviser's note: This section was amended by 1992 c 50 § 1 and by 1992 c 83 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—1992 c 83: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect April 30, 1992." [1992 c 83 § 6.]

Effective date—1992 c 50: "This act shall take effect June 30, 1993." [1992 c 50 § 4.]

28A.625.050 Rules. The superintendent of public instruction shall adopt rules under chapter 34.05 RCW to carry out the purposes of RCW 28A.625.010 through *28A.625.070. These rules shall include establishing the selection criteria for the Washington award for excellence in education program. The superintendent is encouraged to consult with teachers, educational staff associates, principals, administrators, classified employees, superintendents, and school board members in developing the selection criteria. Notwithstanding the provisions of RCW 28A.625.020 (1) and (2), such rules may allow for the selection of individuals whose teaching or administrative duties, or both, may encompass multiple grade level or building assignments, or

both. [1991 c 255 § 8; 1990 c 33 § 516; 1988 c 251 § 2; 1986 c 147 § 5. Formerly RCW 28A.03.532.]

***Reviser's note:** RCW 28A.625.070 was repealed by 1991 c 255 § 11.

28A.625.060 Grant in lieu of waiver of tuition and fees—Principals and teachers or administrators may apply. (Effective until June 30, 1993.) Teachers, principals or administrators, and superintendents who have received an award for excellence in education and choose to apply for an educational grant under RCW 28A.625.041 shall be awarded the grant by the superintendent of public instruction as long as a written grant application is submitted to the superintendent within one year after the award was received. The grant application shall identify the educational purpose toward which the grant shall be used. [1991 c 255 § 9; 1990 c 33 § 517; 1988 c 251 § 3; 1986 c 147 § 7. Formerly RCW 28A.03.535.]

28A.625.060 Grant in lieu of waiver of tuition and fees—Teachers, classified employees, principals or administrators, and superintendents may apply. (Effective June 30, 1993.) Teachers, classified employees, principals or administrators, and superintendents who have received an award for excellence in education and choose to apply for an educational grant under RCW 28A.625.041 shall be awarded the grant by the superintendent of public instruction as long as a written grant application is submitted to the superintendent within one year after the award was received. The grant application shall identify the educational purpose toward which the grant shall be used. [1992 c 50 § 3; 1991 c 255 § 9; 1990 c 33 § 517; 1988 c 251 § 3; 1986 c 147 § 7. Formerly RCW 28A.03.535.]

Effective date—1992 c 50: See note following RCW 28A.625.041.

28A.625.065 Completion of courses paid for by academic grant. Courses paid for in full by the academic grant under RCW 28A.625.041(2)(a) shall be completed within four years after the academic grant is received. [1992 c 83 § 2; 1991 c 255 § 4.]

Effective date—1992 c 83: See note following RCW 28A.625.041.

EMPLOYEE SUGGESTION PROGRAM

28A.625.100 Board of directors of a school district may establish. The board of directors of any school district may establish and maintain an employee suggestion program to encourage and reward meritorious suggestions by certificated and classified school employees. The program shall be designed to promote efficiency or economy in the performance of any function of the school district. Each board establishing an employee suggestion program shall establish procedures for the proper administration of the program. [1986 c 143 § 1. Formerly RCW 28A.02.320.]

Effective date—1986 c 143: "This act shall take effect on August 1, 1986." [1986 c 143 § 4.]

28A.625.110 Awards. The board of directors of the school district shall make the final determination as to whether an employee suggestion award will be made and shall determine the nature and extent of the award. The

award shall not be a regular or supplemental compensation program for all employees and the suggestion must, in fact, result in actual savings greater than the award amount. Any moneys which may be awarded to an employee as part of an employee suggestion program shall not be considered salary or compensation for the purposes of RCW 28A.400.200 or chapter 41.40 RCW. [1990 c 33 § 519; 1987 1st ex.s. c 2 § 207; 1986 c 143 § 2. Formerly RCW 28A.02.325.]

Intent—Severability—Effective date—1987 1st ex.s. c 2: See notes following RCW 84.52.0531.

Effective date—1986 c 143: See note following RCW 28A.625.100.

COMMENDABLE EMPLOYEE SERVICE AND RECOGNITION AWARD

28A.625.150 Award program. The board of directors of any school district may establish a commendable employee service and recognition award program for certificated and classified school employees. The program shall be designed to recognize exemplary service, special achievements, or outstanding contributions by an individual in the performance of his or her duties as an employee of the school district. The board of directors of the school district shall determine the extent and type of any nonmonetary award. The value of any nonmonetary award shall not be deemed salary or compensation for the purposes of RCW 28A.400.200 or chapter 41.32 RCW. [1990 c 33 § 520; 1987 1st ex.s. c 2 § 210; 1985 c 399 § 2. Formerly RCW 28A.58.842.]

Intent—Severability—Effective date—1987 1st ex.s. c 2: See notes following RCW 84.52.0531.

Award for excellence in education program: RCW 28A.625.020 through 28A.625.065.

MATHEMATICS, ENGINEERING, AND SCIENCE ACHIEVEMENT

28A.625.200 Findings and intent. The legislature finds that high technology is important to the state's economy and the welfare of its citizens. The legislature finds that certain groups, as characterized by sex or ethnic background, are traditionally underrepresented in mathematics, engineering, and the science-related professions in this state. The legislature finds that women and minority students have been traditionally discouraged from entering the fields of science and mathematics including teaching in these fields. The legislature finds that attitudes and knowledges acquired during the kindergarten through eighth grade prepare students to succeed in high school science and mathematics programs and that special skills necessary for these fields need to be acquired during the ninth through twelfth grades. It is the intent of the legislature to promote a mathematics, engineering, and science achievement program to help increase the number of people in these fields and teaching in these fields from groups underrepresented in these fields. [1989 c 66 § 1; 1984 c 265 § 1. Formerly RCW 28A.03.430.]

Implementation—Funding required—1984 c 265: "Implementation of this act shall be subject to funds being appropriated or otherwise available for such purposes." [1984 c 265 § 6.]

28A.625.210 Mathematics, engineering, and science achievement program—Establishment and administration through University of Washington—Goals. A program to increase the number of people from groups underrepresented in the fields of mathematics, engineering, and the physical sciences in this state shall be established by the University of Washington. The program shall be administered through the University of Washington and designed to:

(1) Encourage students in the targeted groups in the common schools, with a particular emphasis on those students in middle and junior high schools and the sixth through twelfth grades, to acquire the academic skills needed to study mathematics, engineering, or related sciences at an institution of higher education;

(2) Promote the awareness of career opportunities including the career opportunities of teaching in the fields of science and mathematics and the skills necessary to achieve those opportunities among students sufficiently early in their educational careers to permit and encourage the students to acquire the skills;

(3) Promote cooperation among institutions of higher education, the superintendent of public instruction and local school districts in working towards the goals of the program; and

(4) Solicit contributions of time and resources from public and private institutions of higher education, high schools, middle and junior high schools, and private business and industry. [1990 c 286 § 1; 1989 c 66 § 2; 1984 c 265 § 2. Formerly RCW 28A.03.432.]

Implementation—Funding required—1984 c 265: See note following RCW 28A.625.200.

28A.625.220 Mathematics, engineering, and science achievement program—Coordinator—Staff. A coordinator shall be hired to administer the program. Additional staff as necessary may be hired. [1984 c 265 § 3. Formerly RCW 28A.03.434.]

Implementation—Funding required—1984 c 265: See note following RCW 28A.625.200.

28A.625.230 Coordinator to develop selection standards. The coordinator shall develop standards and criteria for selecting students who participate in the program which may include predictive instruments to ascertain aptitude and probability of success. The standards shall include requirements that students take certain courses, maintain a certain grade point average, and participate in activities sponsored by the program. Women and students from minority groups, which are traditionally underrepresented in mathematics and science-related professions and which meet the requirements established by the coordinator shall be selected. [1984 c 265 § 4. Formerly RCW 28A.03.436.]

Implementation—Funding required—1984 c 265: See note following RCW 28A.625.200.

28A.625.240 Local program centers. The coordinator shall establish local program centers throughout the state to implement RCW 28A.625.210 through 28A.625.230. Each center shall be managed by a center director. Addi-

tional staff as necessary may be hired. [1990 c 33 § 521; 1984 c 265 § 5. Formerly RCW 28A.03.438.]

Implementation—Funding required—1984 c 265: See note following RCW 28A.625.200.

SCHOOL IMPROVEMENT AND RESEARCH PROJECTS

28A.625.300 Grants—Advisory committee—Information clearinghouse. (1) The superintendent of public instruction is hereby authorized to grant funds for selected school improvement and research projects, including improvements in curriculum, instruction, and classroom management developed by teachers.

(2) The superintendent shall appoint an advisory committee on research and development composed of certificated and noncertificated staff, administrators, curriculum specialists, parents, school directors, postsecondary educators, business persons, and others as the superintendent finds necessary. The committee shall propose criteria to the superintendent to evaluate proposed school improvement and research projects proposed by educational employees. The criteria approved by the superintendent shall: (a) Assure to the extent possible that projects will be chosen which represent the various geographical locations, school or district sizes, and grade levels existent in the state; (b) provide for evaluation of each project upon completion; and (c) include such other requirements as the superintendent finds necessary. The committee shall recommend to the superintendent of public instruction the awarding of grants to fund those proposals showing the most potential for developing knowledge which will be helpful to local districts in their efforts to enhance educational equity and excellence. Projects may involve the collaboration of personnel from higher education institutions and kindergarten through grade twelve educators.

(3) The superintendent of public instruction shall award grants to selected project participants in such amounts as determined by the superintendent of public instruction, who shall take into consideration grant amounts as recommended by the advisory committee on research and development under subsection (2) of this section. The sum of all grants awarded per year shall not exceed that amount appropriated by the legislature for such purposes. Grants may be awarded to individual teachers or teams of teachers including teacher's aides and volunteers.

(4) The superintendent of public instruction shall maintain a clearinghouse of information on these research projects for the use of local districts. [1985 c 349 § 4. Formerly RCW 28A.67.115.]

Severability—1985 c 349: See note following RCW 28A.630.800. *State clearinghouse on educational information: RCW 28A.300.130.*

28A.625.350 Short title. RCW 28A.625.360 through 28A.625.390 may be known and cited as the Washington award for excellence in teacher preparation act. [1990 1st ex.s. c 10 § 1.]

Finding—1990 1st ex.s. c 10: "The legislature finds that excellence in teacher preparation requires increased cooperation and coordination between institutions of higher education and school districts as it relates to the preparation of students into the profession of teaching. The legislature further finds that an increase in the level of such cooperation and coordina-

tion in selecting, training, and supervising excellent "cooperating" teachers, and the development of new school and university partnerships, will be beneficial to the teaching profession, and will enhance the ability of all new teachers to perform at a more competent level during their initial teaching experience." [1990 1st ex.s. c 10 § 6.]

28A.625.360 Excellence in teacher preparation award established. (1) The state board of education shall establish an annual award program for excellence in teacher preparation to recognize higher education teacher educators for their leadership, contributions, and commitment to education.

(2) The program shall recognize annually one teacher preparation faculty member from one of the teacher preparation programs approved by the state board of education. [1990 1st ex.s. c 10 § 2.]

Finding—1990 1st ex.s. c 10: See note following RCW 28A.625.350.

28A.625.370 Award for teacher educator. The award for the teacher educator shall include:

(1) A certificate presented to the teacher educator by the governor, the president of the state board of education, and the superintendent of public instruction at a public ceremony; and

(2) A grant to the professional education advisory board of the institution from which the teacher educator is selected, which grant shall not exceed two thousand five hundred dollars and which grant shall be awarded under RCW 28A.625.390. [1990 1st ex.s. c 10 § 3.]

Finding—1990 1st ex.s. c 10: See note following RCW 28A.625.350.

28A.625.380 Rules. The state board of education shall adopt rules under chapter 34.05 RCW to carry out the purposes of RCW 28A.625.360 through 28A.625.390. These rules shall include establishing the selection criteria for the Washington award for excellence in teacher preparation. The state board of education is encouraged to consult with teacher educators, deans, and professional education advisory board members in developing the selection criteria. The criteria shall include any role performed by nominees relative to implementing innovative developments by the nominee's teacher preparation program and efforts the nominee has made to assist in communicating with legislators, common school teachers and administrators and others about the nominee's teacher preparation program. [1990 1st ex.s. c 10 § 4.]

Finding—1990 1st ex.s. c 10: See note following RCW 28A.625.350.

28A.625.390 Educational grant—Eligibility—Award. The professional education advisory board for the institution from which the teacher educator has been selected to receive an award shall be eligible to apply for an educational grant as provided under RCW 28A.625.370. The state board of education shall award the grant after the state board has approved the grant application as long as the written grant application is submitted to the state board within one year after the award is received by the teacher educator. The grant application shall identify the educational purpose

toward which the grant shall be used. [1990 1st ex.s. c 10 § 5.]

Finding—1990 1st ex.s. c 10: See note following RCW 28A.625.350.

28A.625.900 Severability—1990 1st ex.s. c 10. 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. [1990 1st ex.s. c 10 § 10.]

Chapter 28A.630

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28A.630.885	Washington commission on student learning—Technical advisory committees—Development of state-wide academic assessment system—Quality schools center—Reports to the legislature.

28A.630.010 Field tests of educational outcomes and related measures—Report. (Effective until January 2, 1994.) (1) The superintendent of public instruction may select up to ten school districts, from among districts interested and submitting written grant applications, to field test the educational outcomes and related measures developed pursuant to *RCW 28A.100.013.

(2) The superintendent shall select the school districts by June 30, 1989, and the field tests shall begin with the 1989-90 school year and conclude at the end of the 1992-93 school year.

(3) Each selected school district shall submit annually to the superintendent of public instruction a report on its field test project.

(4) The superintendent of public instruction shall report to the legislature by January 1, 1994, on the results of the field tests of the educational outcomes and related measures. The report shall include a recommendation on whether the outcomes and related measures should be implemented on a state-wide basis. The report shall also include, if the educational outcomes and related measures are judged to be beneficial, a recommendation on whether selected provisions of state statutes or regulations should be amended or repealed if such action would enhance the benefits of the

educational outcomes and related measures. [1987 c 401 § 7. Formerly RCW 28A.100.017.]

***Reviser's note:** RCW 28A.100.013 expired June 30, 1989. See RCW 28A.630.090.

28A.630.020 Rules. (Effective until January 2, 1994.) The superintendent of public instruction shall adopt rules as necessary to carry out the purposes of *RCW 28A.100.011 through 28A.100.017. [1987 c 401 § 8. Formerly RCW 28A.100.018.]

***Reviser's note:** RCW 28A.100.011 through 28A.100.016 have expired. See RCW 28A.630.090.

28A.630.030 Use of educational outcomes and related measures as part of a schools for the twenty-first century pilot project. (Effective until January 2, 1994.) No provision of *this act may prohibit a school district from incorporating the educational outcomes and related measures as part of a schools for the twenty-first century pilot project. [1987 c 401 § 9. Formerly RCW 28A.100.019.]

***Reviser's note:** For codification of "this act" [1987 c 401], see Codification Tables, Volume 0.

28A.630.040 Application for grants. (Effective until January 2, 1994.) Teachers are encouraged to apply for funds under the state grant program for school improvement and research projects to develop innovative ways in which to achieve the educational outcomes and to meet both state goals and building-level goals identified under the state required school self-study process. [1987 c 401 § 10. Formerly RCW 28A.100.020.]

28A.630.070 All kids can learn incentive grants—Created. In recognition of the importance of the process of defining district purposes and systematically working to achieve the desired results using research and practices that work, the legislature creates the all kids can learn incentive grants. [1990 c 148 § 2.]

Findings—1990 c 148: "As we face a more complex society and increasing demands are placed on schools and the services they provide for children, it is important that each school and school district determine the role it is to play. In addition to determining their roles, school districts need to be able to implement the plans established using research and practices that work. School districts need incentives to develop and implement mission plans that produce more learning for more students. To develop their visions, school districts must determine what it is that they want and what it is that they have or know. These determinations will enable school districts to develop a vision of what the school districts are trying to accomplish and enable all parties involved to direct all activities in each school in the school district to make the vision come true." [1990 c 148 § 1.]

28A.630.075 All kids can learn incentive grants—Terms. The superintendent of public instruction may grant funds to school districts for schools to plan and implement outcome-based education programs. Such grants shall carry out the purposes of the basic education act. Grants shall be of sufficient size and scope, shall be granted for a five-year period, shall be subject to appropriations, and shall conform to the principles underlying the outcomes-driven education process. [1990 c 148 § 3.]

Findings—1990 c 148: See note following RCW 28A.630.070.

28A.630.090 Expiration dates—1987 c 401. (1) RCW 28A.100.012 shall expire December 2, 1988.

(2) RCW 28A.100.010, 28A.100.011, and 28A.100.013 through 28A.100.016 shall expire June 30, 1989.

(3) RCW 28A.630.010 through 28A.630.040 shall expire January 2, 1994. [1990 c 33 § 524; 1987 c 401 § 11. Formerly RCW 28A.100.025.]

28A.630.091 Severability—1987 c 401. 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. [1987 c 401 § 13. Formerly RCW 28A.100.026.]

SCHOOLS FOR THE TWENTY-FIRST CENTURY

28A.630.100 Program established—Goals—Intent. (Effective until June 30, 1994.) (1) A schools for the twenty-first century pilot program is established to foster change in the state common school system. The program will enable educators and parents of selected schools or school districts to restructure certain school operations and to develop model school programs which will improve student performance. The program shall include an evaluation of the projects and be accountable for student progress. The purpose of the program is to determine whether increasing local decision-making authority will produce more effective learning.

(2) The legislature intends to encourage educational creativity, professionalism, and initiative by: (a) Providing schools an opportunity to develop new methods and procedures, through the temporary waiver of certain state statutes or administrative rules, and (b) providing selected public schools or school districts with the technology, services, and staff essential to enhance learning. [1987 c 525 § 101. Formerly RCW 28A.100.030.]

Severability—1987 c 525: "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." [1987 c 525 § 305.]

28A.630.110 Duties of state board of education. (Effective until June 30, 1994.) The state board of education, with the assistance of the superintendent of public instruction, shall develop a process for schools or school districts to apply to participate in the schools for the twenty-first century pilot program. The board shall review and select projects for grant awards, and monitor and evaluate the schools for the twenty-first century pilot program. The board shall develop criteria to evaluate the need for the waivers of state statutes or administrative rules as identified under RCW 28A.630.180. [1990 c 33 § 525; 1987 c 525 § 102. Formerly RCW 28A.100.032.]

Severability—1987 c 525: See note following RCW 28A.630.100.

28A.630.120 Task force—Duties—Members—Travel expenses. (Effective until June 30, 1994.) (1) The governor shall appoint a task force on schools for the twenty-first century. The task force shall assist and cooperate with the state board of education in the development of

the process, and review and selection of projects under RCW 28A.630.110 and with the state board's duties under RCW 28A.630.200. The state board is directed, in developing the criteria for waivers, to take into consideration concerns and recommendations of the task force.

(2) The task force of ten people shall be appointed by the governor. Appointed members who are not legislators shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060. Appointed members who are members of the legislature shall be reimbursed for travel expenses under RCW 44.04.120. Members of the task force shall serve for a period of six years. [1990 c 33 § 526; 1987 c 525 § 103. Formerly RCW 28A.100.034.]

Severability—1987 c 525: See note following RCW 28A.630.100.

28A.630.130 Approval of projects by state board—Recommendations by task force. (Effective until June 30, 1994.) The process, review, and selection of projects to be developed in RCW 28A.630.110 shall be approved by the state board of education. The governor's task force on schools for the twenty-first century shall recommend projects for approval to the state board of education. [1990 c 33 § 527; 1987 c 525 § 104. Formerly RCW 28A.100.036.]

Severability—1987 c 525: See note following RCW 28A.630.100.

28A.630.140 Applications—Proposed plan. (Effective until June 30, 1994.) Initial applications to participate in the schools for the twenty-first century pilot program shall be submitted by the school district board of directors to the state board of education not later than May 31, 1988. Subject to available funding, additional applications may be submitted for board consideration by November 1 of subsequent years. Each application shall contain a proposed plan which:

(1) Enumerates specific activities to be carried out as part of the pilot school(s) project;

(2) Commits all parties to work cooperatively during the term of the pilot project;

(3) Includes provisions for some or all certificated school staff, including certificated administrative staff, and classified school employees whose primary duties are the daily educational instruction of students, to be employed on supplemental contracts with additional compensation for a minimum of an average of ten additional days beyond the general state funded school year allocations for the participating employees, and staff development time as provided by legislative appropriation, and, notwithstanding RCW 28A.400.200, district resources may be used to fund the employment of staff beyond the average of ten additional days for the purposes of the pilot project;

(4) Includes budget plans for the project and additional anticipated sources of funding, including private grants and contributions, if any;

(5) Identifies the technical resources desired, the potential costs of those resources, and the institutions of higher education, educational service districts, or consultants available to provide such services;

(6) Identifies the evaluation and accountability processes to be used to measure school-wide student and project performance, and identifies a model which provides the basis

for a staff incentive pay system. Implementation of the staff incentive pay system is not required;

(7) Justifies each request for waiver of specific state statutes or administrative rules during at least the first two years of the project;

(8) Includes a written statement that school directors and administrators are willing to exempt the pilot school(s) from specifically identified local rules, as needed;

(9) Includes a written statement that the school directors and the local bargaining agents will modify those portions of their local agreements as applicable for the pilot school(s) project; and

(10) Includes written statements of support from the district's board of directors, the district superintendent, the principal and staff of the building requesting to become a pilot school; and statements of support, willingness to participate, or concerns from any interested parent, business, or community organization. [1992 c 112 § 1; 1988 c 1 § 1; 1987 c 525 § 105. Formerly RCW 28A.100.038.]

28A.630.150 Selection of projects. (Effective until June 30, 1994.) The board, and the task force, after reviewing project proposals, shall, subject to money being appropriated by the legislature for this purpose, select:

(1) Not more than twenty-one projects during each biennium for the schools for the twenty-first century pilot program;

(2) At least one entire school district if the application is consistent with the requirements under RCW 28A.630.110 and 28A.630.140;

(3) Projects which reflect a balance among elementary, junior high or middle schools, and high schools. They should also reflect, as much as possible, a balance among geographical areas and school characteristics and sizes. [1990 c 33 § 528; 1987 c 525 § 106. Formerly RCW 28A.100.040.]

Severability—1987 c 525: See note following RCW 28A.630.100.

28A.630.160 Administration of program and grant of funding by superintendent—Distribution of grants—Length of projects. (Effective until June 30, 1994.) (1) The superintendent of public instruction shall administer RCW 28A.630.110 and 28A.630.130 through 28A.630.230 and is authorized to award grant funding, subject to money being appropriated by the legislature for this purpose for pilot projects selected by the state board of education under RCW 28A.630.150.

(2) The superintendent of public instruction shall distribute the initial award grants by July 1, 1988. The initial schools for the twenty-first century pilot projects shall commence with the 1988-89 school year.

(3) The twenty-first century pilot school projects may be conducted for up to six years, if funds are so provided. Subject to state board approval and continued state funding, pilot projects initially funded for two years may be extended for a total period not to exceed six years. Future funding shall be conditioned on a positive evaluation of the project. [1990 c 33 § 529; 1987 c 525 § 107. Formerly RCW 28A.100.042.]

Severability—1987 c 525: See note following RCW 28A.630.100.

28A.630.170 Gifts, grants, and contributions for program—Schools for the twenty-first century pilot program account. (Effective until June 30, 1994.) (1) The superintendent of public instruction may accept, receive, and administer for the purposes of RCW 28A.630.110 through 28A.630.230 such gifts, grants, and contributions as may be provided from public and private sources for the purposes of RCW 28A.630.110 through 28A.630.230.

(2) The schools for the twenty-first century pilot program account is hereby established in the custody of the state treasurer. The superintendent of public instruction shall deposit in the account all moneys received under this section. Moneys in the account may be spent only for the purposes of RCW 28A.630.110 through 28A.630.230. Disbursements from this account shall be on the authorization of the superintendent of public instruction or the superintendent's designee. The account is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements. [1990 c 33 § 530; 1987 c 525 § 108. Formerly RCW 28A.100.044.]

Severability—1987 c 525: See note following RCW 28A.630.100.

28A.630.180 Waivers from certain statutes or rules. (Effective until June 30, 1994.) The state board of education, where appropriate, or the superintendent of public instruction, where appropriate, is authorized to grant waivers to pilot project districts from the provisions of statutes or administrative rules relating to: The length of the school year; teacher contact hour requirements; program hour offerings; student to teacher ratios; salary lid compliance requirements; the commingling of funds appropriated by the legislature on a categorical basis for such programs as, but not limited to, highly capable students, transitional bilingual instruction, and learning assistance; and other administrative rules which in the opinion of the state board of education or the opinion of the superintendent of public instruction may need to be waived in order to implement a pilot project proposal. [1987 c 525 § 109. Formerly RCW 28A.100.048.]

Severability—1987 c 525: See note following RCW 28A.630.100.

28A.630.190 Rules prohibited from being waived—Procedure for requesting waiver of federal regulations. (Effective until June 30, 1994.) State rules dealing with public health, safety, and civil rights, including accessibility by the handicapped, shall not be waived. A school district may request the state board of education or the superintendent of public instruction to ask the United States department of education or other federal agencies to waive certain federal regulations necessary to fully implement the proposed pilot project. [1987 c 525 § 110. Formerly RCW 28A.100.050.]

Severability—1987 c 525: See note following RCW 28A.630.100.

28A.630.200 Resources and support for participant school districts—Use of colleges and universities—Staff development. (Effective until June 30, 1994.) The board shall ensure that successful applicant school districts will be afforded resource and special support assistance, as specified in legislative appropriations, in undertaking schools for the twenty-first century pilot program activities. The board shall

develop a process that coordinates and facilitates linkages among participating school districts and colleges and universities. Staff from schools or districts selected to participate in the schools for the twenty-first century pilot program shall be given priority consideration for participation in state sponsored staff development programs and summer institutes which are directly related to the goals of the selected projects. [1987 c 525 § 111. Formerly RCW 28A.100.052.]

Severability—1987 c 525: See note following RCW 28A.630.100.

28A.630.210 Rules. (Effective until June 30, 1994.) (1) The state board of education may adopt rules under chapter 34.05 RCW as necessary to implement its duties under RCW 28A.630.110 and 28A.630.130 through 28A.630.230.

(2) The superintendent of public instruction may adopt rules under chapter 34.05 RCW as necessary to implement the superintendent's duties under RCW 28A.630.110 and 28A.630.130 through 28A.630.230. [1990 c 33 § 531; 1987 c 525 § 112. Formerly RCW 28A.100.054.]

Severability—1987 c 525: See note following RCW 28A.630.100.

28A.630.220 Reports. (Effective until June 30, 1994.) (1) The state board of education shall report to the legislature on the progress of the schools for the twenty-first century pilot program by January 15 of each odd-numbered year, including a recommendation on the number of additional pilot schools which should be authorized and funded. The first report shall be submitted by January 15, 1989.

(2) Each school district selected to participate in the schools for the twenty-first century pilot project shall submit an annual report to the state board of education on the progress of the pilot project as a condition of receipt of continued funding. [1987 c 525 § 113. Formerly RCW 28A.100.056.]

Severability—1987 c 525: See note following RCW 28A.630.100.

28A.630.230 Information on projects—Superintendent's duties through state clearinghouse for education information. (Effective until June 30, 1994.) The superintendent of public instruction, through the state clearinghouse for education information, shall collect and disseminate to all school districts and other interested parties information about the schools for the twenty-first century pilot projects. [1987 c 525 § 114. Formerly RCW 28A.100.058.]

Severability—1987 c 525: See note following RCW 28A.630.100.

Teacher exchange programs: RCW 28A.300.200.

28A.630.290 Expiration date—1987 c 525 § 101-114. RCW 28A.630.100 through 28A.630.230 shall expire June 30, 1994. [1990 c 33 § 532; 1987 c 525 § 115. Formerly RCW 28A.100.068.]

28A.630.295 Final report—Expiration of section. (1) The state board of education shall submit by January 15, 1995, to the legislature and the governor, a final report on the schools for the twenty-first century program. This report shall include but is not limited to the following information:

(a) Improvements in student performance resulting from activities carried out under the schools for the twenty-first century program;

(b) The relationship between improvements in student performance and increasing local decision-making authority under the schools for the twenty-first century program; and

(c) Identification of restructuring that occurred with and without the granting of waivers of state statutes or administrative rules.

(2) The state board of education and the superintendent of public instruction, from available funds, may contract for an independent evaluation of the schools for the twenty-first century program.

(3) This section shall expire January 30, 1995. [1992 c 112 § 2.]

INTERNATIONAL EDUCATION

28A.630.300 Legislative findings—Intent. The legislature finds that the economy of the state of Washington more than that of any other state in the union is dependent on foreign trade, particularly with Pacific Rim countries. If Washington's status as a leading state in international trade is to be maintained and strengthened, students of this state need to be better prepared. The legislature also finds that parents and our public education system can work cooperatively to prepare children as they begin to face complex questions of world order and stability. It is, therefore, the intent of the legislature to provide students with enhanced opportunities to increase their awareness of and understanding about other nations and the relationships of those countries with Washington state. [1987 c 349 § 1. Formerly RCW 28A.125.010.]

28A.630.320 Grant program—Application procedure. (1) The superintendent of public instruction may grant funds to selected school districts for the purposes of developing and implementing international education programs. The grants shall be in such amounts as determined by the superintendent of public instruction. The sum of all grants awarded shall not exceed the amount appropriated by the legislature for such purposes.

(2) The grant program shall center on the use of the international education model curriculum or curriculum guidelines developed in *RCW 28A.630.310. Districts may use the international education model curriculum or curriculum guidelines developed under *RCW 28A.630.310 as a guideline for creating their own model curriculum for participation in the grant program.

(3) School districts may apply singularly or a group of school districts may apply together to participate in the program.

(4) School districts applying for the international education grant program shall submit a plan which includes:

(a) Participation by the school district in both the model curriculum or curriculum guidelines development activities and the grant program activities provided for by RCW 28A.630.300 through 28A.630.390;

(b) The application or intent to conduct a foreign language program including either Japanese or Mandarin Chinese beginning in the ninth grade;

(c) A staff in-service training program addressing the implementation of international education curriculum;

(d) A goal to enlist participation where possible by private enterprise, cultural and ethnic associations, foreign trade or policy organizations, the local community, exchange students and students who have participated in exchange programs, and parents;

(e) Evaluation of the pilot program.

(5) To the extent possible, selected school districts shall represent the various geographical locations, school or school district sizes, and grade levels in the state.

(6) By January 1, 1988, the superintendent of public instruction shall select five school district grantees for the program. The program shall be implemented beginning with the 1988-89 school year.

(7) The program in international education shall be considered a social studies offering for the purpose of RCW 28A.230.090(1). [1990 c 33 § 534; 1987 c 349 § 3. Formerly RCW 28A.125.030.]

*Reviser's note: RCW 28A.630.310 was repealed by 1991 c 116 § 26.

28A.630.330 Rules. The superintendent of public instruction shall adopt rules under chapter 34.05 RCW to carry out the purposes of RCW 28A.630.300 through 28A.630.320. [1990 c 33 § 535; 1987 c 349 § 4. Formerly RCW 28A.125.040.]

28A.630.390 Severability—1987 c 349. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1987 c 349 § 7. Formerly RCW 28A.125.900.]

DEVELOPMENT OF EDUCATIONAL PARAPROFESSIONAL TRAINING PROGRAM

28A.630.400 Associate of arts degree. (1) The state board of education and the *state board for community college education, in consultation with the superintendent of public instruction, the higher education coordinating board, the state apprenticeship training council, and community colleges, shall work cooperatively to develop by September 1, 1992, an educational paraprofessional associate of arts degree.

(2) As used in this section, an "educational paraprofessional" is an individual who has completed an associate of arts degree for an educational paraprofessional. The educational paraprofessional may be hired by a school district to assist certificated instructional staff in the direct instruction of children in small and large groups, individualized instruction, testing of children, recordkeeping, and preparation of materials. The educational paraprofessional shall work under the direction of instructional certificated staff.

(3) The training program for an educational paraprofessional associate of arts degree shall include, but is not limited to, the general requirements for receipt of an associate of arts degree and training in the areas of introduction to childhood education, orientation to handicapped children, fundamentals of childhood education, creative activities for

children, instructional materials for children, fine art experiences for children, the psychology of learning, introduction to education, child health and safety, child development and guidance, first aid, and a practicum in a school setting.

(4) In developing the program, consideration shall be given to transferability of credit earned in this program to teacher preparation programs at colleges and universities.

(5) The agencies identified under subsection (1) of this section shall adopt rules as necessary under chapter 34.05 RCW to implement this section. [1991 c 285 § 2; 1989 c 370 § 1. Formerly RCW 28A.04.180.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

PROJECT DREAM

28A.630.750 Findings—Purpose. (1) The legislature finds that more and more young people, especially in the urban areas of the state, are becoming involved with gangs, substance abuse, including drug trafficking, and teen pregnancy. As they become involved in such activities, they more frequently drop out of school than other students and are at greater risk of experiencing unemployment, becoming involved with criminal activities, and turning to public assistance programs for support. The end result is harm to both themselves and society. Substance abuse, gang activity, unemployment, and teen pregnancy are taking a disproportionate toll on minority youth.

(2) The legislature further finds that existing programs take a piecemeal approach to the needs of at-risk youth, offering only limited services. As a consequence, the current programs are not adequately effective in stopping the proliferation of gangs, substance abuse, unemployment, teen pregnancy, or other problems among youth, particularly in the urban areas of the state. Studies show clearly that poor academic performance plays a significant part in these problems.

(3) The purpose of RCW 28A.630.750 through 28A.630.783 is to create a cost-effective program that will challenge, motivate, and give incentive to underachieving, at-risk students in an effort to: Boost their academic achievement in school; reduce their involvement with gangs and substance abuse; reduce the numbers of at-risk youth, particularly minorities, who are unemployed; and reduce the number of teen pregnancies. [1991 c 346 § 1.]

Contingency—1991 c 346: See RCW 28A.630.786.

28A.630.753 Short title. RCW 28A.630.750 through 28A.630.789 shall be known and may be cited as project DREAM (dare to reach for educational aspirations and marks). [1991 c 346 § 2.]

Contingency—1991 c 346: See RCW 28A.630.786.

28A.630.756 Definitions. Unless the context clearly indicates otherwise, the definitions in this section apply throughout RCW 28A.630.759 through 28A.630.783.

(1) "Advisor" means an adult assigned specific responsibilities to work individually with at-risk students who receive services under project DREAM established under RCW

28A.630.759. Advisors shall not be required to be professionally certificated.

(2) "At-risk student" or "student" means a student age fourteen through age twenty-one who meets the following criteria:

(a) The student is one or more grade levels behind in basic skills as determined by placement testing or has not graduated from high school or has not successfully completed the general educational development test;

(b) The student has violated school district or school building rules of conduct on at least three occasions in the same school year, is pregnant, or is a parent;

(c) The student comes from an historically disadvantaged group; and

(d) The family income level of the student is below the median level for the state.

(3) "Department" means the department of social and health services.

(4) "Superintendent" means the state superintendent of public instruction. [1991 c 346 § 3.]

Contingency—1991 c 346: See RCW 28A.630.786.

28A.630.759 Project DREAM. (1) The superintendent, working with the employment security department, the department of social and health services, the *state board for vocational education in the office of the governor, and other state agencies as are appropriate, shall be the lead agency in developing and administering project DREAM, dare to reach for educational aspirations and marks, a pilot grant program for academic excellence for underachieving, at-risk students. The program shall emphasize a focus on minority students but shall not be exclusively limited to serving minority students.

(2) Initially, the program shall be limited to the school districts of Seattle, Tacoma, Spokane, Yakima, and Pasco, focusing on the areas within these school districts with the highest percentages of underachieving, at-risk students.

(3) Project DREAM shall commence at the beginning of the school year following receipt of federal funds by the superintendent of public instruction and, subject to continued federal or state funding, end at the completion of the fourth school year following implementation of the program. [1991 c 346 § 4.]

***Reviser's note:** Powers, duties, and functions of the state board for vocational education transferred to the work force training and education coordinating board by 1991 c 238 § 3.

Contingency—1991 c 346: See RCW 28A.630.786.

28A.630.762 Districts' responsibilities. Each school district participating in project DREAM shall be responsible for the following:

(1) Individual programs under project DREAM shall consist of the following:

(a) Academic counseling and outreach, including study skills;

(b) Parent and family outreach and involvement;

(c) Employment and vocational counseling and training;

(d) Substance abuse awareness and counseling, and treatment as necessary;

(e) Teen pregnancy and teen parenting counseling; and

(f) Positive self-image building.

(2) In designing the local program, the participating districts are encouraged to consider:

(a) Dropout prevention strategies developed by school districts under RCW 28A.175.020 through 28A.175.070, the state grant program for local school district student motivation, retention, and retrieval programs; and

(b) Substance abuse prevention, intervention, and aftercare strategies developed by school districts under RCW 28A.170.010 through 28A.170.070, the state grant program for local school district substance abuse awareness programs.

(3) In designing the local program, the participating districts shall:

(a) Contact the local job service center to establish how the center can assist the district in providing participating students employment and vocational counseling and training; and

(b) Contact branch offices of the department and local community-based providers of health care to establish how these entities can and will assist the district in providing participating students counseling and information, and treatment as necessary, relating to substance abuse, teen pregnancy, and teen parenting. [1991 c 346 § 5.]

Contingency—1991 c 346: See RCW 28A.630.786.

28A.630.765 Adult advisors. (1) The participating districts shall be responsible for screening and employing adult advisors and for providing any training necessary for the adult advisors to carry out their responsibilities effectively.

(2) Each adult advisor shall be responsible for the following:

(a) Maintaining a caseload of at-risk students not to exceed fifteen;

(b) Signing a written agreement with each student to comply with specific state or local regulations, or both, while participating in project DREAM;

(c) Meeting weekly with each student to monitor the student's progress under project DREAM;

(d) Meeting bi-weekly with each student's teachers, school counselor, and parents or guardian, and family members;

(e) Maintaining for each student a portfolio; and

(f) Serving as the facilitator in getting the student together with school or community-based health care providers, vocational counselors, job service center personnel, employment interviews, and other persons or groups that can help the student gain maximum benefits from participating in project DREAM. [1991 c 346 § 6.]

Contingency—1991 c 346: See RCW 28A.630.786.

28A.630.768 Students' responsibilities. Each student shall be responsible to do the following:

(1) Sign a written agreement with his or her adult advisor to comply with all state or local regulations, or both, while a participant in project DREAM;

(2) Meet weekly with his or her adult advisor to discuss the student's progress;

(3) Maintain a personal written or audio portfolio;

(4) Attend all programs, seminars, training sessions, and other activities arranged by their advisor; and

(5) Maintain regular attendance at school or at work or both. [1991 c 346 § 7.]

Contingency—1991 c 346: See RCW 28A.630.786.

28A.630.771 Reporting requirements. (1) Each school district participating in project DREAM shall submit annually to the superintendent of public instruction a report on the district's local program. The report shall include an assessment of the effectiveness of the services, programs, or activities provided to the participating at-risk students and other information required by the superintendent. The superintendent shall establish the date for submittal of reports.

(2) The superintendent shall work with the participating districts in developing reporting requirements that do not create excessive paperwork but that provide information necessary for the superintendent to evaluate the impact of project DREAM on the participating at-risk students.

(3) The superintendent shall submit annually to the legislature and the governor a report on project DREAM. The first report shall be submitted not later than December 1 of the second school year following implementation of the program, and each succeeding report shall be submitted not later than December 1st.

(4) The superintendent's reports shall include information on how many students have or are participating in the local programs and the success of the programs in meeting the needs of the participating at-risk students. [1991 c 346 § 8.]

Contingency—1991 c 346: See RCW 28A.630.786.

28A.630.774 Superintendent's duties. The superintendent shall undertake the following activities:

(1) Organize a speakers' bureau of prominent role models, with an emphasis on minority role models;

(2) Meet with community and business leaders to market project DREAM; and

(3) Coordinate with other state and local agencies a centralized data base of preexisting services that can meet the purposes of project DREAM. [1991 c 346 § 9.]

Contingency—1991 c 346: See RCW 28A.630.786.

28A.630.777 Collection and dissemination of information. Through the state clearinghouse for education information, the superintendent shall collect and disseminate to school districts and other interested parties information about project DREAM. [1991 c 346 § 10.]

Contingency—1991 c 346: See RCW 28A.630.786.

28A.630.780 Technical support from state agencies. The employment security department, the department of social and health services, the *state board for vocational education in the office of the governor, and other state agencies as may be involved with the development of project DREAM, shall assist the superintendent in providing appropriate and necessary technical support and assistance to the school districts participating in project DREAM. [1991 c 346 § 11.]

*Reviser's note: Powers, duties, and functions of the state board for vocational education transferred to the work force training and education coordinating board by 1991 c 238 § 3.

Contingency—1991 c 346: See RCW 28A.630.786.

28A.630.783 Rules. (1) The superintendent shall adopt rules as necessary under chapter 34.05 RCW to implement the provisions of RCW 28A.630.750 through 28A.630.777.

(2) The respective agencies under RCW 28A.630.780 shall adopt rules as necessary under chapter 34.05 RCW to implement RCW 28A.630.780. [1991 c 346 § 12.]

Contingency—1991 c 346: See RCW 28A.630.786.

28A.630.786 Contingency. RCW 28A.630.750 through 28A.630.789 shall take effect when the superintendent of public instruction receives funds made available for the purposes of RCW 28A.630.750 through 28A.630.789 and only if such funds are received by June 30, 1993. [1991 c 346 § 13.]

28A.630.789 Severability—1991 c 346. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1991 c 346 § 14.]

TEMPORARY PROVISIONS

28A.630.800 Career ladders—Legislative intent to investigate. The legislature recognizes the need to keep and attract quality teachers in our public schools. The legislature intends to examine the effectiveness of a career ladder in our public schools. To improve the quality of teaching and foster a professional climate which encourages creativity and cooperation among teachers and enhances the intrinsic rewards teachers experience from helping students learn, the legislature intends to locally test ways in which the goal of attracting and retaining excellent teachers might be accomplished. The legislature recognizes that a career ladder system is one means of enhancing the attractiveness of teaching; however, the legislature wishes to investigate this concept further prior to determining whether to develop such a system. [1985 c 349 § 3. Formerly RCW 28A.67.120.]

Severability—1985 c 349: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 349 § 9.]

28A.630.810 Rules. The superintendent of public instruction shall adopt rules as necessary under chapter 34.05 RCW to carry out the provisions of *this act. [1989 c 233 § 17. Formerly RCW 28A.120.800.]

***Reviser's note:** "This act" consisted of the enactment of RCW 28A.31.170, 28A.41.172, 28A.120.090, 28A.120.092, 28A.120.094, 28A.120.096, and 28A.120.800, the 1989 c 233 amendments to RCW 28A.120.010, 28A.120.016, 28A.120.020, 28A.120.032, 28A.58.217, and 28A.02.061, and several uncodified and vetoed sections.

28A.630.820 Intent. (Expires January 1, 1996.) It is the intent of the legislature to (1) encourage school districts, individually and cooperatively, to develop innovative special services demonstration projects that use resources efficiently and increase student learning; (2) promote noncategorical approaches to special services program

design, funding, and administration; (3) develop efficient and cost-effective means for identifying students as specific learning disabled, in order to increase the proportion of resources devoted to classroom instruction; (4) avoid unnecessary labeling of students while still providing state funding for needed services; and (5) provide a means to grant waivers from state rules. [1992 c 180 § 1; 1991 c 265 § 1.]

Expiration date—1992 c 180: See RCW 28A.630.851.

Expiration date—1991 c 265: See RCW 28A.630.850.

28A.630.825 Special services demonstration projects—Duties of the superintendent of public instruction—Reports. (Expires January 1, 1996.) The superintendent of public instruction shall:

(1) Make ten to twenty-five awards for demonstration projects in individual school districts and cooperatives;

(2) Make awards for in-service training of teachers and other staff;

(3) Provide technical assistance;

(4) Grant waivers from state rules needed to implement the projects, or request such waivers to be granted by the appropriate agency;

(5) Contract with school districts for demonstration projects and make contract payments in accordance with RCW 28A.630.820 through 28A.630.840;

(6) Perform or contract for an evaluation of the projects;

(7) Confer on the evaluation design with the selection advisory committee; and

(8) Submit to the legislature an interim report on the evaluation by December 31, 1993, and a final report by December 31, 1995. [1991 c 265 § 2.]

Expiration date—1991 c 265: See RCW 28A.630.850.

28A.630.830 Selection advisory committee—Duties. (Expires January 1, 1996.) (1) The selection advisory committee is created. The committee shall be composed of up to three members from the house of representatives, up to three members from the senate, up to two members from the office of the superintendent of public instruction, and one member from each of the following: The office of financial management, Washington state special education coalition, transitional bilingual instruction educators, and Washington education association.

(2) The legislative budget committee and the superintendent of public instruction shall provide staff for the selection advisory committee.

(3) The selection advisory committee shall:

(a) Develop appropriate criteria for selecting demonstration projects;

(b) Issue requests for proposals in accordance with RCW 28A.630.820 through 28A.630.840 for demonstration projects to commence during the 1991-92 and 1992-93 school years;

(c) Review proposals and recommend demonstration projects for approval by the superintendent of public instruction;

(d) Advise the superintendent of public instruction on the evaluation design; and

(e) Report each year by December 1st on the status of the demonstration projects to the legislative budget commit-

tee and the appropriate policy and fiscal committees of the house of representatives and the senate. [1991 c 265 § 3.]

Expiration date—1991 c 265: See RCW 28A.630.850.

28A.630.835 School districts' duties. (Expires January 1, 1996.) School districts with demonstration projects shall:

(1) Confer on a regular basis during project planning and implementation with teachers, support staff, parents of handicapped students, and parents of other students served in the project;

(2) Administer annual achievement tests to all students served in the project if required in the project contract; and

(3) Cooperate in providing all information needed for the evaluation. [1991 c 265 § 4.]

Expiration date—1991 c 265: See RCW 28A.630.850.

28A.630.840 Special services demonstration project funding. (Expires January 1, 1996.) (1) Project funding may include state, federal, and local funds, as specified by the district in its approved project proposal.

(2) As a general guideline, subject to refinements in the district proposal and approval by the superintendent of public instruction, the portion of state handicapped funding included as project funding shall be determined as follows:

(a) If the district serves specific learning disabled students in the project, the portion of the handicapped allocation attributed to specific learning disabled students shall be included, with proportional adjustments if the project serves only part of the district's specific learning disabled population;

(b) If other handicapped students are served in the project, the portions of the handicapped allocation attributed to those students shall be included, with proportional adjustments if the project serves only part of the district's population in those categories of handicapped students.

(3) State handicapped allocations shall be calculated for project districts according to the handicapped funding formula in use for other districts, except for the provisions of RCW 28A.630.845 and with the following changes:

(a) Project funding for school districts that had pilot projects approved under section 13, chapter 233, Laws of 1989, and that were participating in projects under this section on January 31, 1992, shall be based for the duration of a project under RCW 28A.630.820 through 28A.630.840 on four percent of the kindergarten through twelfth grade enrollment considered as specific learning disabled, without regard to the actual number of students so identified. The legislature recognizes the importance of continuing and developing the pilot projects.

(b) School districts with approved projects as of January 31, 1992, may receive funding in each school year for handicapped students served in the project based on the average percentage of the kindergarten through twelfth grade enrollment in the particular handicapped category during the prior three years. School districts that wish to exercise this option shall notify the selection advisory committee and the superintendent of public instruction by May 1, 1992.

(c) The funding percentages for demonstration projects specified in (a) of this subsection shall be used to adjust basic education allocations under RCW 28A.150.260 and

learning assistance program allocations under RCW 28A.165.070.

(d) State handicapped allocations under subsection (2) of this section up to the level required by federal maintenance of effort rules shall be expended for services to handicapped students in the project. Allocations greater than the amount needed to comply with federal maintenance of effort rules may at the option of the district be designated as noncategorical project funds and may be expended on services to any student served in the project.

(4) Federal handicapped allocations may be designated in whole or in part for project use.

(5) Learning assistance program allocations may be designated in whole or in part for project use. These allocations shall be calculated for project districts according to the funding formula in use for other districts, except that any increases in the district allocation above the fiscal year 1991 amount shall be designated as noncategorical project funds and may be expended on services to any student served in the project.

(6) Transitional bilingual program allocations may be designated in whole or in part for project use. These allocations shall be calculated for project districts according to the funding formula in use for other districts, except that any increases in the district allocation above the fiscal year 1991 amount shall be designated as noncategorical project funds and may be expended on services to any student served in the project.

(7) Funding under the federal remediation program allocations may be designated in whole or in part for project use.

(8) Funding from local sources may be designated for project use.

(9) Expenditures of noncategorical project funds under subsections (3)(d), (5), and (6) of this section shall be accounted for in new and discrete program or subprogram codes designated by the superintendent of public instruction. The codes shall take effect by September 1, 1991. [1992 c 180 § 2; 1991 c 265 § 5.]

Expiration date—1992 c 180: See RCW 28A.630.851.

Expiration date—1991 c 265: See RCW 28A.630.850.

28A.630.845 Demonstration projects that reduce percentage of students labeled handicapped—Funding—Conversion from other approved demonstration projects—Expiration of section. (1) The legislature finds that the state system of funding handicapped education has fiscal incentives to label children as handicapped and that unnecessary labeling can be detrimental to children. The legislature encourages demonstration projects that provide needed services without unnecessary labeling. To test this approach, the legislature intends to maintain the funding level for innovative special services programs that reduce the incidence of unnecessary labeling.

(2) School districts may propose demonstration projects under this section to provide needed services and achieve major reductions in the percentage of district students labeled as handicapped in one or more specified categories. State handicapped funding for districts with such projects shall be based for the duration of the project and for two years after the end of the project on the average percentage of the

kindergarten through twelfth grade enrollment in the specified categories during the 1991-92 school year or, for projects approved after April 1, 1992, during the school year before the start of the project.

(3) Funding under subsection (2) of this section is contingent on the following: (a) The funding is spent on children needing special services; and (b) the overall percentage of first through twelfth grade students in the district labeled as handicapped declines each year of the project after the 1991-92 school year, excluding handicapped students who transfer into the district.

(4) School districts with approved demonstration projects that wish to convert to a project under this section shall by May 1, 1992, notify the selection advisory committee and the superintendent of public instruction and propose appropriate modifications to the project.

(5) This section expires September 1, 1997. [1992 c 180 § 3.]

28A.630.850 Expiration date—1991 c 265. Sections 1 through 5 of this act shall expire January 1, 1996. [1991 c 265 § 7.]

28A.630.851 Expiration date—1992 c 180. Sections 1 and 2 of this act shall expire January 1, 1996. [1992 c 180 § 4.]

28A.630.860 Findings. (Expires June 30, 1999.) (1) The legislature finds that improving the quality of education is essential to improving the ability of students to prosper in a changing work force. Today's employers have a tremendous need for technically skilled people whether they are graduating from high school, a community college, a four-year university, or a technical college.

(2) The legislature further finds that student motivation can be greatly increased by demonstration of practical application of course work content and relevancy to student career interests.

(3) The legislature further finds that our rapidly changing work force demands improving basic competencies and skills by challenging and motivating our students to compete in a global economy.

(4) The legislature further finds that students should have access to both academic and vocational education in accordance with their interests, needs, and abilities. The elimination of rigid tracking into educational programs will increase students' post high school options and expose students to a wide range of vocational and academic opportunities.

(5) The purpose of RCW 28A.630.862 through 28A.630.880 is to equip students with increased academic and vocational education opportunities through the establishment of academic and vocational integration development projects geographically distributed throughout the state. [1992 c 137 § 1.]

Expiration date—1992 c 137: "Sections 1 through 12 of this act shall expire June 30, 1999." [1992 c 137 § 14.]

Severability—1992 c 137: "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." [1992 c 137 § 15.]

Conflict with federal requirements—1992 c 137: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. The rules under this act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state." [1992 c 137 § 16.]

28A.630.862 Academic and vocational integration development program established. (Expires June 30, 1999.) There is established in the office of the superintendent of public instruction an academic and vocational integration development program which shall fund and coordinate pilot projects to develop model secondary school projects. The projects shall combine academic and vocational education into a single instructional system that is responsive to the educational needs of all students in secondary schools. Goals of the projects within the program shall include at a minimum:

(1) Integration of vocational and academic instructional curriculum into a single curriculum;

(2) Emphasis on increased vocational, personal, and academic guidance and counseling for students as an essential component of the student's high school experience;

(3) Active participation of educators in the planning, implementation, and operation of the project, including increased opportunities for professional development and in-service training; and

(4) Active participation by employers, private and public community service providers, parents, and community members in the development and operation of the project. [1992 c 137 § 2.]

Expiration date—Severability—Conflict with federal requirements—1992 c 137: See notes following RCW 28A.630.860.

28A.630.864 Selection of projects—Evaluation of program. (Expires June 30, 1999.) The superintendent of public instruction shall develop a process for schools or school districts to apply to participate in the academic and vocational integration development program. The office of the superintendent of public instruction shall review and select projects for grant awards, and monitor and evaluate the academic and vocational integration development program. [1992 c 137 § 3.]

Expiration date—Severability—Conflict with federal requirements—1992 c 137: See notes following RCW 28A.630.860.

28A.630.866 Task force on academic and vocational integration. (Expires June 30, 1999.) The superintendent of public instruction shall appoint a ten-member task force on academic and vocational integration. The task force shall include at least one representative from the work force training and education coordinating board. The task force shall advise the superintendent of public instruction in the development of the process for applying to participate in the academic and vocational integration development program, in the review and selection of projects under RCW 28A.630.864, and the monitoring and evaluation of the projects. [1992 c 137 § 4.]

Expiration date—Severability—Conflict with federal requirements—1992 c 137: See notes following RCW 28A.630.860.

28A.630.868 Administration of program—Duration of projects. (Expires June 30, 1999.) (1) The superintendent of public instruction shall administer RCW 28A.630.860 through RCW 28A.630.880.

(2) The academic and vocational integration development projects may be conducted for up to six years, if funds are provided. [1992 c 137 § 6.]

Expiration date—Severability—Conflict with federal requirements—1992 c 137: See notes following RCW 28A.630.860.

28A.630.870 Gifts, grants, and contributions—Academic and vocational integration development program account. (Expires June 30, 1999.) (1) The superintendent of public instruction may accept, receive, and administer for the purposes of RCW 28A.630.860 through 28A.630.880 such gifts, grants, and contributions as may be provided from public and private sources for the purposes of RCW 28A.630.860 through 28A.630.880.

(2) The academic and vocational integration development program account is hereby established in the custody of the state treasurer. The superintendent of public instruction shall deposit in the account all moneys received under this section. Moneys in the account may be spent only for the purposes of 28A.630.860 through 28A.630.880. Disbursements from this account shall be on the authorization of the superintendent of public instruction or the superintendent's designee. The account is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements. [1992 c 137 § 7.]

Expiration date—Severability—Conflict with federal requirements—1992 c 137: See notes following RCW 28A.630.860.

28A.630.872 Waivers. (Expires June 30, 1999.) (1) The state board of education, where appropriate, or the superintendent of public instruction, where appropriate, may grant waivers to pilot project districts consistent with law if necessary to implement a pilot project proposal.

(2) State rules dealing with public health, safety, and civil rights, including accessibility by the handicapped, shall not be waived. A school district may request the state board of education or the superintendent of public instruction to ask the United States department of education or other federal agencies to waive certain federal regulations necessary to fully implement the proposed pilot project. [1992 c 137 § 8.]

Expiration date—Severability—Conflict with federal requirements—1992 c 137: See notes following RCW 28A.630.860.

28A.630.874 Technical assistance—Coordination with educational boards—Rules. (Expires June 30, 1999.)

(1) The superintendent of public instruction, in coordination with the state board for community and technical colleges, the work force training and education coordinating board, and the higher education coordinating board, shall provide technical assistance to selected schools and shall develop a process that coordinates and facilitates linkages among participating school districts, technical colleges, and colleges and universities.

(2) The superintendent of public instruction and the state board of education may adopt rules under chapter 34.05

RCW as necessary to implement its duties under RCW 28A.630.860 through RCW 28A.630.880. [1992 c 137 § 9.]

Expiration date—Severability—Conflict with federal requirements—1992 c 137: See notes following RCW 28A.630.860.

28A.630.876 Reporting requirements. (Expires June 30, 1999.) (1) The superintendent of public instruction shall report to the legislature on the progress of the schools for the academic and vocational integration development program by December 15 of each odd-numbered year.

(2) Each school district selected to participate in the academic and vocational integration development program shall submit an annual report to the superintendent of public instruction on the progress of the pilot project as a condition of receipt of continued funding. [1992 c 137 § 10.]

Expiration date—Severability—Conflict with federal requirements—1992 c 137: See notes following RCW 28A.630.860.

28A.630.878 Dissemination of information—State clearinghouse for education information. (Expires June 30, 1999.) The superintendent of public instruction, through the state clearinghouse for education information, shall collect and disseminate to all school districts and other interested parties information about the academic and vocational integration development pilot projects. [1992 c 137 § 11.]

Expiration date—Severability—Conflict with federal requirements—1992 c 137: See notes following RCW 28A.630.860.

28A.630.880 Short title—1992 c 137. (Expires June 30, 1999.) RCW 28A.630.860 through 28A.630.880 may be known and cited as the academic and vocational integration development program. [1992 c 137 § 12.]

Expiration date—Severability—Conflict with federal requirements—1992 c 137: See notes following RCW 28A.630.860.

28A.630.884 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 28A.630.884 and 28A.630.885.

(1) "Academic assessment system" or "assessment system" means a series of academic examinations and performance-based assessments developed by the commission on student learning to determine if students have mastered the essential academic learning requirements.

(2) "Essential academic learning requirements" means the academic and technical knowledge and skills identified by the commission on student learning, as reviewed and amended by the legislature and state board of education, that students are expected to know and be able to do at specified intervals in their schooling. The essential academic learning requirements, at a minimum, shall include knowledge and skills in reading, writing, speaking, science, history, geography, mathematics, and critical thinking. [1992 c 141 § 201.]

Findings—Part headings—Severability—1992 c 141: See notes following RCW 28A.410.040.

28A.630.885 Washington commission on student learning—Technical advisory committees—Development of state-wide academic assessment system—Quality schools center—Reports to the legislature. (Expires September 1, 1998.) *(2) The Washington commission on

student learning is hereby established. The primary purposes of the commission are to identify what all students need to know and be able to do based on the student learning goals of the governor's council on education reform and funding, to develop student assessment and school accountability systems, and to take other steps necessary to develop a performance-based education system. The commission shall include three members of the state board of education, three members appointed by the governor before July 1, 1992, and three members appointed no later than February 1, 1993, by the governor elected in the November 1992 election. In making the appointments, educators, business leaders, and parents shall be represented, and nominations from state-wide education, business, and parent organizations shall be requested. Efforts shall be made to ensure that the commission reflects the cultural diversity of the state's K-12 student population and that the major geographic regions in the state are represented. Appointees shall be qualified individuals who are supportive of educational restructuring, who have a positive record of service, and who will devote sufficient time to the responsibilities of the commission to ensure that the objectives of the commission are achieved.

(3) The commission shall begin its substantive work subject to *subsection (1) of this section.

(4) The commission shall establish technical advisory committees. Membership of the technical advisory committees shall include, but not necessarily be limited to, professionals from the office of the superintendent of public instruction and the state board of education, and other state and local educational practitioners and student assessment specialists.

(5) The commission, with the assistance of the technical advisory committees, shall:

(a) Identify what all elementary and secondary students need to know and be able to do. At a minimum, these essential academic learning requirements shall include reading, writing, speaking, science, history, geography, mathematics, and critical thinking. In developing these essential academic learning requirements, the commission shall incorporate the student learning goals identified by the council on education reform and funding;

(b) By December 1, 1995, present to the state board of education and superintendent of public instruction a state-wide academic assessment system for use in the elementary grades designed to determine if each student has mastered the essential academic learning requirements identified in (a) of this subsection. The academic assessment system shall include a variety of methodologies, including performance-based measures. The assessment system shall be designed so that the results under the assessment system are used by educators as tools to evaluate instructional practices, and to initiate appropriate educational support for students who do not master the essential academic learning requirements. Mastery of each component of the essential academic learning requirements shall be required before students progress in subsequent components of the essential academic learning requirements. The state board of education and superintendent of public instruction shall implement the elementary academic assessment system beginning in the 1996-97 school year, unless the legislature takes action to delay or prevent implementation of the assessment system and essential academic learning requirements. The state

board of education and superintendent of public instruction may modify the academic assessment system, as needed, in subsequent school years;

(c) By December 1, 1996, present to the state board of education and superintendent of public instruction a state-wide academic assessment system for use in the secondary grades designed to determine if each student has mastered the essential academic learning requirements identified for secondary students in (a) of this subsection. The academic assessment system shall use a variety of methodologies, including performance-based measures, to determine if students have mastered the essential academic learning requirements, and shall lead to a certificate of mastery. The certificate of mastery shall be required for graduation. The assessment system shall be designed so that the results are used by educators to evaluate instructional practices, and to initiate appropriate educational support for students who do not master the essential academic learning requirements. The commission shall recommend to the state board of education whether the certificate of mastery should take the place of the graduation requirements or be required for graduation in addition to graduation requirements. The state board of education and superintendent of public instruction shall implement the secondary academic assessment system beginning in the 1997-98 school year, unless the legislature takes action to delay or prevent implementation of the assessment system and essential academic learning requirements. The state board of education and superintendent of public instruction may modify the assessment system, as needed, in subsequent school years;

(d) Consider methods to address the unique needs of special education students when developing the assessments in (b) and (c) of this subsection;

(e) Develop strategies that will assist educators in helping students master the essential academic learning requirements;

(f) Establish a center the primary role of which is to plan, implement, and evaluate a high quality professional development process. The quality schools center shall: Have an advisory council composed of educators, parents, and community and business leaders; use best practices research regarding instruction, management, curriculum development, and assessment; coordinate its activities with the office of the superintendent of public instruction and the state board of education; employ and contract with individuals who have a commitment to quality reform; prepare a six-year plan to be updated every two years; and be able to accept resources and funding from private and public sources;

(g) Develop recommendations for the repeal or amendment of federal, state, and local laws, rules, budgetary language, regulations, and other factors that inhibit schools from adopting strategies designed to help students achieve the essential academic learning requirements;

(h) Develop recommendations on the time, support, and resources, including technical assistance, needed by schools and school districts to help students achieve the essential academic learning requirements. These recommendations shall include an estimate for the legislature, superintendent of public instruction, and governor on the expected cost of implementing the elementary and secondary academic

assessment systems during the 1995-97 biennium and beyond;

(i) Develop recommendations for consideration by the higher education coordinating board for adopting college and university entrance requirements that would assist schools in adopting strategies designed to help students achieve the essential academic learning requirements;

(j) By December 1, 1996, recommend to the legislature, state board of education, and superintendent of public instruction a state-wide accountability system to evaluate accurately and fairly the level of learning occurring in individual schools and school districts. The commission also shall recommend to the legislature steps that should be taken to assist school districts and schools in which learning is significantly below expected levels of performance as measured by the academic assessment systems established under this section;

(k) Report annually by December 1st to the legislature and the state board of education on the progress, findings, and recommendations of the commission; and

(l) Complete other tasks, as appropriate.

(6) The commission shall coordinate its activities with the state board of education and the office of the superintendent of public instruction.

(7) The commission shall seek advice broadly from the public and all interested educational organizations in the conduct of its work, including holding periodic regional public hearings.

(8) The commission shall select an entity to provide staff support and the office of financial management shall contract with that entity. The commission may direct the office of financial management to enter into subcontracts with school districts, teachers, higher education faculty, state agencies, business organizations, and other individuals and organizations to assist the commission in its deliberations.

(9) Members of the commission shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. [1992 c 141 § 202.]

***Reviser's note:** Subsection (1) of this section was vetoed by the governor. The vetoed language is as follows:

"(1) The governor's council on education reform and funding shall submit its proposed student learning goals to the appropriate committees of the legislature by December 1, 1992. If both houses of the legislature do not adopt a joint memorial or legislation ratifying, or ratifying with amendment, the student learning goals by July 1, 1993, section 202 and sections 501 through 507 of this act shall be null and void."

Expiration date—1992 c 141 § 202: "Section 202 of this act shall expire September 1, 1998." [1992 c 141 § 203.]

Findings—Part headings—Severability—1992 c 141: See notes following RCW 28A.410.040.

Chapter 28A.635

OFFENSES RELATING TO SCHOOL PROPERTY AND PERSONNEL

Sections

28A.635.010	Abusing or insulting teachers, liability for—Penalty.
28A.635.020	Willfully disobeying school administrative personnel or refusing to leave public property, violations, when—Penalty.
28A.635.030	Disturbing school, school activities or meetings—Penalty.
28A.635.040	Examination questions—Disclosing—Penalty.
28A.635.050	Certain corrupt practices of school officials—Penalty.

(1992 Ed.)

28A.635.060	Defacing or injuring school property—Liability of pupil, parent or guardian—Voluntary work program as alternative—Rights protected.
28A.635.070	Property, failure of officials or employees to account for—Mutilation by—Penalties.
28A.635.080	Director's connivance to employ uncertified teachers—Liability.
28A.635.090	Interfering by force or violence with any administrator, teacher, classified employee, or student unlawful.
28A.635.100	Intimidating any administrator, teacher, classified employee, or student by threat of force or violence unlawful.
28A.635.110	Violations under RCW 28A.635.090 and 28A.635.100—Disciplinary authority exception.
28A.635.120	Violations under RCW 28A.635.090 and 28A.635.100—Penalty.

Educational employment relations act: Chapter 41.59 RCW.

28A.635.010 Abusing or insulting teachers, liability for—Penalty. Any person who shall insult or abuse a teacher anywhere on the school premises while such teacher is carrying out his or her official duties, shall be guilty of a misdemeanor, the penalty for which shall be a fine of not less than ten dollars nor more than one hundred dollars. [1990 c 33 § 536; 1984 c 258 § 314; 1969 ex.s. c 199 § 55; 1969 ex.s. c 223 § 28A.87.010. Prior: 1909 c 97 p 360 § 11; RRS § 5054; prior: 1903 c 156 § 11; 1897 c 118 § 169; 1890 p 383 § 86. Formerly RCW 28A.87.010, 28.87.010.]

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

Intent—1984 c 258: See note following RCW 3.46.120.

28A.635.020 Willfully disobeying school administrative personnel or refusing to leave public property, violations, when—Penalty. (1) It shall be unlawful for any person to willfully disobey the order of the chief administrative officer of a public school district, or of an authorized designee of any such administrator, to leave any motor vehicle, building, grounds or other property which is owned, operated or controlled by the school district if the person so ordered is under the influence of alcohol or drugs, or is committing, threatens to imminently commit or incites another to imminently commit any act which would disturb or interfere with or obstruct any lawful task, function, process or procedure of the school district or any lawful task, function, process or procedure of any student, official, employee or invitee of the school district. The order of a school officer or designee acting pursuant to this subsection shall be valid if the officer or designee reasonably believes a person ordered to leave is under the influence of alcohol or drugs, is committing acts, or is creating a disturbance as provided in this subsection.

(2) It shall be unlawful for any person to refuse to leave public property immediately adjacent to a building, grounds or property which is owned, operated or controlled by a school district when ordered to do so by a law enforcement officer if such person is engaging in conduct which creates a substantial risk of causing injury to any person, or substantial harm to property, or such conduct amounts to disorderly conduct under RCW 9A.84.030.

(3) Nothing in this section shall be construed to prohibit or penalize activity consisting of the lawful exercise of freedom of speech, freedom of press and the right to peaceably assemble and petition the government for a redress

of grievances: PROVIDED, That such activity neither does or threatens imminently to materially disturb or interfere with or obstruct any lawful task, function, process or procedure of the school district, or any lawful task, function, process or procedure of any student, official, employee or invitee of the school district: PROVIDED FURTHER, That such activity is not conducted in violation of a prohibition or limitation lawfully imposed by the school district upon entry or use of any motor vehicle, building, grounds or other property which is owned, operated or controlled by the school district.

(4) Any person guilty of violating this section shall be deemed guilty of a misdemeanor and, upon conviction therefor, shall be fined not more than five hundred dollars, or imprisoned in jail for not more than six months or both so fined and imprisoned. [1981 c 36 § 1; 1975-'76 2nd ex.s. c 100 § 1. Formerly RCW 28A.87.055.]

Severability—1975-'76 2nd ex.s. c 100: "If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975-'76 2nd ex.s. c 100 § 3.]

28A.635.030 Disturbing school, school activities or meetings—Penalty. Any person who shall willfully create a disturbance on school premises during school hours or at school activities or school meetings shall be guilty of a misdemeanor, the penalty for which shall be a fine in any sum not more than fifty dollars. [1984 c 258 § 315; 1969 ex.s. c 199 § 57; 1969 ex.s. c 223 § 28A.87.060. Prior: 1909 c 97 p 361 § 12; RRS § 5055; prior: 1903 c 156 § 12; 1897 c 118 § 170; 1890 p 383 § 87. Formerly RCW 28A.87.060, 28.87.060.]

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

Intent—1984 c 258: See note following RCW 3.46.120.

28A.635.040 Examination questions—Disclosing—Penalty. Any person having access to any question or questions prepared for the examination of teachers or common school pupils, who shall directly or indirectly disclose the same before the time appointed for the use of the questions in the examination of such teachers or pupils, or who shall directly or indirectly assist any person to answer any question submitted, shall be guilty of a misdemeanor, the penalty for which shall be a fine in any sum not less than one hundred nor more than five hundred dollars. [1984 c 258 § 316; 1969 ex.s. c 199 § 58; 1969 ex.s. c 223 § 28A.87.070. Prior: 1909 c 97 p 357 § 1; RRS § 5043; prior: 1903 c 156 § 1; 1897 c 118 § 159. Formerly RCW 28A.87.070, 28.87.070.]

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

Intent—1984 c 258: See note following RCW 3.46.120.

28A.635.050 Certain corrupt practices of school officials—Penalty. Except as otherwise provided in chapter 42.23 RCW, it shall be unlawful for any member of the state board of education, the superintendent of public instruction or any employee of the superintendent's office, any educational service district superintendent, any school district superintendent or principal, or any director of any school

district, to request or receive, directly or indirectly, anything of value for or on account of his or her influence with respect to any act or proceeding of the state board of education, the office of the superintendent of public instruction, any office of educational service district superintendent or any school district, or any of these, when such act or proceeding shall inure to the benefit of those offering or giving the thing of value.

Any willful violation of the provisions of this section shall be a misdemeanor and punished as such. [1990 c 33 § 537; 1975 1st ex.s. c 275 § 143; 1969 ex.s. c 176 § 150; 1969 ex.s. c 223 § 28A.87.090. Prior: 1917 c 126 § 1; RRS § 5050. Formerly RCW 28A.87.090, 28.87.090.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28A.635.060 Defacing or injuring school property—Liability of pupil, parent or guardian—Voluntary work program as alternative—Rights protected. (1) Any pupil who shall deface or otherwise injure any school property, shall be liable to suspension and punishment. Any school district whose property has been lost or willfully cut, defaced, or injured, may withhold the grades, diploma, and transcripts of the pupil responsible for the damage or loss until the pupil or the pupil's parent or guardian has paid for the damages. When the pupil and parent or guardian are unable to pay for the damages, the school district shall provide a program of voluntary work for the pupil in lieu of the payment of monetary damages. Upon completion of voluntary work the grades, diploma, and transcripts of the pupil shall be released. The parent or guardian of such pupil shall be liable for damages as otherwise provided by law.

(2) Before any penalties are assessed under this section, a school district board of directors shall adopt procedures which insure that pupils' rights to due process are protected.

(3) If the department of social and health services or a child-placing agency licensed by the department has been granted custody of a child, that child's records, if requested by the department or agency, are not to be withheld for nonpayment of school fees or any other reason. [1989 c 269 § 6; 1982 c 38 § 1; 1969 ex.s. c 223 § 28A.87.120. Prior: 1909 c 97 p 361 § 41; RRS § 5057; prior: 1903 c 156 § 14; 1897 c 118 § 172; 1890 p 372 § 48. Formerly RCW 28A.87.120, 28.87.120.]

Action against parent for willful injury to property by minor—Monetary limitation—Common law liability preserved: RCW 4.24.190.

28A.635.070 Property, failure of officials or employees to account for—Mutilation by—Penalties. Any school district official or employee who shall refuse or fail to deliver to his or her qualified successor all books, papers, and records pertaining to his or her position, or who shall willfully mutilate or destroy any such property, or any part thereof, shall be guilty of a misdemeanor, the penalty for which shall be a fine not to exceed one hundred dollars: PROVIDED, That for each day there is a refusal or failure to deliver to a successor books, papers and records, a separate offense shall be deemed to have occurred. [1990 c 33 § 538; 1984 c 258 § 317; 1969 ex.s. c 199 § 60; 1969 ex.s. c 223 § 28A.87.130. Prior: 1909 c 97 p 359 § 7, part; RRS § 5049, part; prior: 1907 c 240 § 16, part; 1903 c 156

§ 7, part; 1897 c 118 § 165, part. Formerly RCW 28A.87.130, 28.87.130, part.]

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

Intent—1984 c 258: See note following RCW 3.46.120.

28A.635.080 Director's connivance to employ uncertified teachers—Liability. Any school district director who shall aid in or give his or her consent to the employment of a teacher who is not the holder of a valid teacher's certificate issued under authority of chapter 28A.410 RCW authorizing him or her to teach in the school district by which employed shall be personally liable to his or her district for any loss which it may sustain by reason of the employment of such person. [1990 c 33 § 539; 1969 ex.s. c 223 § 28A.87.135. Prior: 1909 c 97 p 359 § 7, part; RRS § 5049, part; prior: 1907 c 240 § 16, part; 1903 c 156 § 7, part; 1897 c 118 § 165, part. Formerly RCW 28A.87.135, 28.87.130, part, 28.87.160.]

28A.635.090 Interfering by force or violence with any administrator, teacher, classified employee, or student unlawful. It shall be unlawful for any person, singly or in concert with others, to interfere by force or violence with any administrator, teacher, classified employee, or student of any common school who is in the peaceful discharge or conduct of his or her duties or studies. [1990 c 33 § 540; 1988 c 2 § 1; 1971 c 45 § 3. Formerly RCW 28A.87.230.]

28A.635.100 Intimidating any administrator, teacher, classified employee, or student by threat of force or violence unlawful. It shall be unlawful for any person, singly or in concert with others, to intimidate by threat of force or violence any administrator, teacher, classified employee, or student of any common school who is in the peaceful discharge or conduct of his or her duties or studies. [1990 c 33 § 541; 1988 c 2 § 2; 1971 c 45 § 4. Formerly RCW 28A.87.231.]

28A.635.110 Violations under RCW 28A.635.090 and 28A.635.100—Disciplinary authority exception. The crimes defined in RCW 28A.635.090 and 28A.635.100 shall not apply to school administrators, teachers, or classified employees who are engaged in the reasonable exercise of their disciplinary authority. [1990 c 33 § 542; 1988 c 2 § 3; 1971 c 45 § 5. Formerly RCW 28A.87.232.]

28A.635.120 Violations under RCW 28A.635.090 and 28A.635.100—Penalty. Any person guilty of violating RCW 28A.635.090 and 28A.635.100 shall be deemed guilty of a gross misdemeanor and, upon conviction thereon, shall be fined not more than five hundred dollars, or imprisoned in jail not more than six months or both such fine and imprisonment. [1990 c 33 § 543; 1971 c 45 § 6. Formerly RCW 28A.87.233.]

Severability—1971 c 45: See note following RCW 28B.10.570.

Chapter 28A.640 SEXUAL EQUALITY

Sections

28A.640.010 Purpose—Discrimination prohibited.
28A.640.020 Regulations, guidelines to eliminate discrimination—Scope.

28A.640.030 Administration.
28A.640.040 Civil relief for violations.
28A.640.050 Enforcement—Superintendent's orders, scope.
28A.640.900 Chapter supplementary.

Discrimination—Separation of sexes in dormitories, residence halls, etc.: RCW 49.60.222.

28A.640.010 Purpose—Discrimination prohibited. Inequality in the educational opportunities afforded women and girls at all levels of the public schools in Washington state is a breach of Article XXXI, section 1, Amendment 61, of the Washington state Constitution, requiring equal treatment of all citizens regardless of sex. This violation of rights has had a deleterious effect on the individuals affected and on society. Recognizing the benefit to our state and nation of equal educational opportunities for all students, discrimination on the basis of sex for any student in grades K-12 of the Washington public schools is prohibited. [1975 1st ex.s. c 226 § 1. Formerly RCW 28A.85.010.]

Severability—1975 1st ex.s. c 226: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 226 § 8.]

28A.640.020 Regulations, guidelines to eliminate discrimination—Scope. The superintendent of public instruction shall develop regulations and guidelines to eliminate sex discrimination as it applies to public school employment, counseling and guidance services to students, recreational and athletic activities for students, access to course offerings, and in textbooks and instructional materials used by students.

(1) Specifically with respect to public school employment, all schools shall be required to:

(a) Maintain credential requirements for all personnel without regard to sex;

(b) Make no differentiation in pay scale on the basis of sex;

(c) Assign school duties without regard to sex except where such assignment would involve duty in areas or situations, such as but not limited to a shower room, where persons might be disrobed.

(d) Provide the same opportunities for advancement to males and females; and

(e) Make no difference in conditions of employment including, but not limited to, hiring practices, leaves of absence, hours of employment, and assignment of, or pay for, instructional and noninstructional duties, on the basis of sex.

(2) Specifically with respect to counseling and guidance services for students, they shall be made available to all students equally. All certificated personnel shall be required to stress access to all career and vocational opportunities to students without regard to sex.

(3) Specifically with respect to recreational and athletic activities, they shall be offered to all students without regard

to sex. Schools may provide separate teams for each sex. Schools which provide the following shall do so with no disparities based on sex: Equipment and supplies; medical care; services and insurance; transportation and per diem allowances; opportunities to receive coaching and instruction; laundry services; assignment of game officials; opportunities for competition, publicity and awards; scheduling of games and practice times including use of courts, gyms, and pools: PROVIDED, That such scheduling of games and practice times shall be determined by local administrative authorities after consideration of the public and student interest in attending and participating in various recreational and athletic activities. Each school which provides showers, toilets, or training room facilities for athletic purposes shall provide comparable facilities for both sexes. Such facilities may be provided either as separate facilities or shall be scheduled and used separately by each sex.

The superintendent of public instruction shall also be required to develop a student survey to distribute every three years to each local school district in the state to determine student interest for male/female participation in specific sports.

(4) Specifically with respect to course offerings, all classes shall be required to be available to all students without regard to sex: PROVIDED, That separation is permitted within any class during sessions on sex education or gym classes.

(5) Specifically with respect to textbooks and instructional materials, which shall also include, but not be limited to, reference books and audio-visual materials, they shall be required to adhere to the guidelines developed by the superintendent of public instruction to implement the intent of this chapter: PROVIDED, That this subsection shall not be construed to prohibit the introduction of material deemed appropriate by the instructor for educational purposes. [1975 1st ex.s. c 226 § 2. Formerly RCW 28A.85.020.]

Severability—1975 1st ex.s. c 226: See note following RCW 28A.640.010.

28A.640.030 Administration. The office of the superintendent of public instruction shall be required to monitor the compliance by local school districts with this chapter, shall establish a compliance timetable and regulations for enforcement of this chapter, and shall establish guidelines for affirmative action programs to be adopted by all school districts. [1975 1st ex.s. c 226 § 3. Formerly RCW 28A.85.030.]

Severability—1975 1st ex.s. c 226: See note following RCW 28A.640.010.

28A.640.040 Civil relief for violations. Any person aggrieved by a violation of this chapter, or aggrieved by the violation of any regulation or guideline adopted hereunder, shall have a right of action in superior court for civil damages and such equitable relief as the court shall determine. [1975 1st ex.s. c 226 § 4. Formerly RCW 28A.85.040.]

Severability—1975 1st ex.s. c 226: See note following RCW 28A.640.010.

28A.640.050 Enforcement—Superintendent's orders, scope. The superintendent of public instruction shall have the power to enforce and obtain compliance with the provisions of this chapter and the regulations and guidelines adopted pursuant thereto by appropriate order made pursuant to chapter 34.05 RCW, which order, by way of illustration, may include, the termination of all or part of state apportionment or categorical moneys to the offending school district, the termination of specified programs in which violations may be flagrant within the offending school district, the institution of a mandatory affirmative action program within the offending school district, and the placement of the offending school district on probation with appropriate sanctions until compliance is achieved. [1975 1st ex.s. c 226 § 5. Formerly RCW 28A.85.050.]

Severability—1975 1st ex.s. c 226: See note following RCW 28A.640.010.

28A.640.900 Chapter supplementary. This chapter shall be supplementary to, and shall not supersede, existing law and procedures and future amendments thereto relating to unlawful discrimination based on sex. [1975 1st ex.s. c 226 § 6. Formerly RCW 28A.85.900.]

Severability—1975 1st ex.s. c 226: See note following RCW 28A.640.010.

Chapter 28A.645

APPEALS FROM BOARD

Sections

28A.645.010	Appeals—Notice of—Scope—Time limitation.
28A.645.020	Transcript filed, certified.
28A.645.030	Appeal to be heard de novo and expeditiously.
28A.645.040	Certified copy of decision to county assessor when school district boundaries changed.

Educational employment relations act: Chapter 41.59 RCW.

28A.645.010 Appeals—Notice of—Scope—Time limitation. Any person, or persons, either severally or collectively, aggrieved by any decision or order of any school official or board, within thirty days after the rendition of such decision or order, or of the failure to act upon the same when properly presented, may appeal the same to the superior court of the county in which the school district or part thereof is situated, by filing with the secretary of the school board if the appeal is from board action or failure to act, otherwise with the proper school official, and filing with the clerk of the superior court, a notice of appeal which shall set forth in a clear and concise manner the errors complained of.

Appeals by teachers, principals, supervisors, superintendents, or other certificated employees from the actions of school boards with respect to discharge or other action adversely affecting their contract status, or failure to renew their contracts for the next ensuing term shall be governed by the appeal provisions of chapters 28A.400 and 28A.405 RCW therefor and in all other cases shall be governed by chapter 28A.645 RCW. [1990 c 33 § 544; 1971 ex.s. c 282 § 40; 1969 ex.s. c 34 § 17; 1969 ex.s. c 223 § 28A.88.010. Prior: 1961 c 241 § 9; 1909 c 97 p 362 § 1; RRS § 5064. Formerly RCW 28A.88.010, 28.88.010.] [SLC-RO-1.]

Severability—1971 ex.s. c 282: See note following RCW 28A.310.010.

RCW 28A.645.010 not applicable to contract renewal of school superintendent: RCW 28A.400.010.

28A.645.020 Transcript filed, certified. Within twenty days of service of the notice of appeal, the school board, at its expense, or the school official, at such official's expense, shall file the complete transcript of the evidence and the papers and exhibits relating to the decision for which a complaint has been filed. Such filings shall be certified to be correct. [1971 ex.s. c 282 § 41. Formerly RCW 28A.88.013.]

Severability—1971 ex.s. c 282: See note following RCW 28A.310.010.

28A.645.030 Appeal to be heard de novo and expeditiously. Any appeal to the superior court shall be heard de novo by the superior court. Such appeal shall be heard expeditiously. [1971 ex.s. c 282 § 42. Formerly RCW 28A.88.015.]

Severability—1971 ex.s. c 282: See note following RCW 28A.310.010.

28A.645.040 Certified copy of decision to county assessor when school district boundaries changed. In cases of appeal resulting in the change of any school district boundaries the decision shall within five days thereafter be also certified by the proper officer to the county assessor of the county, or to the county assessors of the counties, wherein the territory may lie. [1969 ex.s. c 223 § 28A.88.090. Prior: 1909 c 97 p 364 § 8; RRS § 5071. Formerly RCW 28A.88.090, 28.88.090.]

Chapter 28A.690

AGREEMENT ON QUALIFICATIONS OF PERSONNEL

Sections

28A.690.010	Compact entered into—Terms.
28A.690.020	Superintendent as "designated state official", compact administrator—Board to approve text of contracts.
28A.690.030	True copies of contracts filed in office of superintendent—Publication.

28A.690.010 Compact entered into—Terms. The Interstate Agreement on Qualifications of Educational Personnel is hereby enacted into law and entered into by this state with all other states legally joining therein in the form substantially as follows:

The contracting states solemnly agree that:

Article I

1. The states party to this Agreement, desiring by common action to improve their respective school systems by utilizing the teacher or other professional educational person wherever educated, declare that it is the policy of each of them, on the basis of cooperation with one another, to take advantage of the preparation and experience of such persons wherever gained, thereby serving the best interests of society, of education, and of the teaching profession. It

is the purpose of this Agreement to provide for the development and execution of such programs of cooperation as will facilitate the movement of teachers and other professional educational personnel among the states party to it, and to authorize specific interstate educational personnel contracts to achieve that end.

2. The party states find that included in the large movement of population among all sections of the nation are many qualified educational personnel who move for family and other personal reasons but who are hindered in using their professional skill and experience in their new locations. Variations from state to state in requirements for qualifying educational personnel discourage such personnel from taking the steps necessary to qualify in other states. As a consequence, a significant number of professionally prepared and experienced educators is lost to our school systems. Facilitating the employment of qualified educational personnel, without reference to their states or origin, can increase the available educational resources. Participation in this compact can increase the availability of educational manpower.

Article II

As used in this Agreement and contracts made pursuant to it, unless the context clearly requires otherwise:

1. "Educational personnel" means persons who must meet requirements pursuant to state law as a condition of employment in educational programs.

2. "Designated state official" means the education official of a state selected by that state to negotiate and enter into, on behalf of his or her state, contracts pursuant to this Agreement.

3. "Accept," or any variant thereof, means to recognize and give effect to one or more determinations of another state relating to the qualifications of educational personnel in lieu of making or requiring a like determination that would otherwise be required by or pursuant to the laws of a receiving state.

4. "State" means a state, territory, or possession of the United States; the District of Columbia; or the Commonwealth of Puerto Rico.

5. "Originating State" means a state (and the subdivision thereof, if any) whose determination that certain educational personnel are qualified to be employed for specific duties in schools is acceptable in accordance with the terms of a contract made pursuant to Article III.

6. "Receiving State" means a state (and the subdivisions thereof) which accept educational personnel in accordance with the terms of a contract made pursuant to Article III.

Article III

1. The designated state official of a party state may make one or more contracts on behalf of his or her state with one or more other party states providing for the acceptance of educational personnel. Any such contract for the period of its duration shall be applicable to and binding on the states whose designated state officials enter into it, and the subdivisions of those states, with the same force and effect as if incorporated in this Agreement. A designated state official may enter into a contract pursuant to this Article only with states in which he or she finds that there

are programs of education, certification standards or other acceptable qualifications that assure preparation or qualification of educational personnel on a basis sufficiently comparable, even though not identical to that prevailing in his or her own state.

2. Any such contract shall provide for:

(a) Its duration.

(b) The criteria to be applied by an originating state in qualifying educational personnel for acceptance by a receiving state.

(c) Such waivers, substitutions, and conditional acceptances as shall aid the practical effectuation of the contract without sacrifice of basic educational standards.

(d) Any other necessary matters.

3. No contract made pursuant to this Agreement shall be for a term longer than five years but any such contract may be renewed for like or lesser periods.

4. Any contract dealing with acceptance of educational personnel on the basis of their having completed an educational program shall specify the earliest date or dates on which originating state approval of the program or programs involved can have occurred. No contract made pursuant to this Agreement shall require acceptance by a receiving state of any persons qualified because of successful completion of a program prior to January 1, 1954.

5. The certification or other acceptance of a person who has been accepted pursuant to the terms of a contract shall not be revoked or otherwise impaired because the contract has expired or been terminated. However, any certificate or other qualifying document may be revoked or suspended on any ground which would be sufficient for revocation or suspension of a certificate or other qualifying document initially granted or approved in the receiving state.

6. A contract committee composed of the designated state officials of the contracting states or their representatives shall keep the contract under continuous review, study means of improving its administration, and report no less frequently than once a year to the heads of the appropriate education agencies of the contracting states.

Article IV

1. Nothing in this Agreement shall be construed to repeal or otherwise modify any law or regulation of a party state relating to the approval of programs of educational preparation having effect solely on the qualification of educational personnel within that state.

2. To the extent that contracts made pursuant to this Agreement deal with the educational requirements for the proper qualification of educational personnel, acceptance of a program of educational preparation shall be in accordance with such procedures and requirements as may be provided in the applicable contract.

Article V

The party states agree that:

1. They will, so far as practicable, prefer the making of multilateral contracts pursuant to Article III of this Agreement.

2. They will facilitate and strengthen cooperation in interstate certification and other elements of educational personnel qualification and for this purpose shall cooperate

with agencies, organizations, and associations interested in certification and other elements of educational personnel qualification.

Article VI

The designated state officials of any party state may meet from time to time as a group to evaluate progress under the Agreement, and to formulate recommendations for changes.

Article VII

Nothing in this Agreement shall be construed to prevent or inhibit other arrangements or practices of any party state or states to facilitate the interchange of educational personnel.

Article VIII

1. This Agreement shall become effective when enacted into law by two states. Thereafter it shall become effective as to any state upon its enactment of this Agreement.

2. Any party state may withdraw from this Agreement by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states.

3. No withdrawal shall relieve the withdrawing state of any obligation imposed upon it by a contract to which it is a party. The duration of contracts and the methods and conditions of withdrawal therefrom shall be those specified in their terms.

Article IX

This Agreement shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Agreement shall be severable and if any phrase, clause, sentence, or provision of this Agreement is declared to be contrary to the constitution of any state or of the United States, or the application thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Agreement and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this Agreement shall be held contrary to the constitution of any state participating therein, the Agreement shall remain in full force and effect as to the state affected as to all severable matters. [1990 c 33 § 545; 1969 ex.s. c 283 § 4. Formerly RCW 28A.93.010, 28.93.010.]

Severability—1969 ex.s. c 283: See note following RCW 28A.150.050.

28A.690.020 Superintendent as "designated state official", compact administrator—Board to approve text of contracts. The "designated state official" for this state under Article II of RCW 28A.690.010 shall be the superintendent of public instruction, who shall be the compact administrator and who shall have power to promulgate rules to carry out the terms of this compact. The superintendent of public instruction shall enter into contracts pursuant to Article III of the Agreement only with the approval of the specific text thereof by the state board of education. [1990 c 33 § 546; 1969 ex.s. c 283 § 5. Formerly RCW 28A.93.020, 28.93.020.]

Severability—1969 ex.s. c 283: See note following RCW 28A.150.050.

28A.690.030 True copies of contracts filed in office of superintendent—Publication. True copies of all contracts made on behalf of this state pursuant to the Agreement as provided in RCW 28A.690.010 shall be kept on file in the office of the superintendent of public instruction. The superintendent of public instruction shall publish all such contracts in convenient form. [1990 c 33 § 547; 1969 ex.s. c 283 § 6. Formerly RCW 28A.93.030, 28.93.030.]

Severability—1969 ex.s. c 283: See note following RCW 28A.150.050.

**Chapter 28A.695
COMPACT FOR EDUCATION**

Sections

28A.695.010	Compact entered into—Terms.
28A.695.020	State representation on education commission—Members, both designated and appointed.
28A.695.030	State representation on education commission—Terms of appointed members—Filling vacancies.
28A.695.040	State representation on education commission—Chair—Cooperation with other entities—Employees.
28A.695.050	State representation on education commission—Payment of travel expenses of members—Limitations.
28A.695.060	State representation on education commission—Grant of powers to commissioners.
28A.695.070	State officers to aid in implementation of compact.
28A.695.080	Bylaws to be filed with secretary of state.

28A.695.010 Compact entered into—Terms. The Compact for Education is hereby entered into with all jurisdictions joining therein, in the form as follows:

**COMPACT FOR EDUCATION
ARTICLE I—PURPOSE AND POLICY**

- A. It is the purpose of this compact to:
 1. Establish and maintain close cooperation and understanding among executive, legislative, professional educational and lay leadership on a nationwide basis at the State and local levels.
 2. Provide a forum for the discussion, development, crystallization and recommendation of public policy alternatives in the field of education.
 3. Provide a clearing house of information on matters relating to educational problems and how they are being met in different places throughout the Nation, so that the executive and legislative branches of State Government and of local communities may have ready access to the experience and record of the entire country, and so that both lay and professional groups in the field of education may have additional avenues for the sharing of experience and the interchange of ideas in the formation of public policy in education.
 4. Facilitate the improvement of State and local educational systems so that all of them will be able to meet adequate and desirable goals in a

- B. society which requires continuous qualitative and quantitative advance in educational opportunities, methods and facilities.
- B. It is the policy of this compact to encourage and promote local and State initiative in the development, maintenance, improvement and administration of educational systems and institutions in a manner which will accord with the needs and advantages of diversity among localities and States.
- C. The party States recognize that each of them has an interest in the quality and quantity of education furnished in each of the other States, as well as in the excellence of its own educational systems and institutions, because of the highly mobile character of individuals within the Nation, and because the products and services contributing to the health, welfare and economic advancement of each State are supplied in significant part by persons educated in other States.

ARTICLE II—STATE DEFINED

As used in this Compact, "State" means a State, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

ARTICLE III—THE COMMISSION

- A. The Education Commission of the States, hereinafter called "the Commission", is hereby established. The Commission shall consist of seven members representing each party State. One of such members shall be the Governor; two shall be members of the State legislature selected by its respective houses and serving in such manner as the legislature may determine; and four shall be appointed by and serve at the pleasure of the Governor, unless the laws of the State otherwise provide. If the laws of a State prevent legislators from serving on the Commission, six members shall be appointed and serve at the pleasure of the Governor, unless the laws of the State otherwise provide. In addition to any other principles or requirements which a State may establish for the appointment and service of its members of the Commission, the guiding principle for the composition of the membership on the Commission from each party State shall be that the members representing such State, shall, by virtue of their training, experience, knowledge or affiliations be in a position collectively to reflect broadly the interests of the State Government, higher education, the state education system, local education, lay and professional, public and non-public educational leadership. Of those appointees, one shall be the head of a state agency or institution, designated by the Governor, having responsibility for one or more programs of public education. In addition to the members of the Commission representing the party States, there may be not to exceed ten non-voting commissioners selected by the steering committee for terms of one year. Such commissioners shall represent leading national organizations of professional educators or persons concerned with educational administration.

- B. The members of the Commission shall be entitled to one vote each on the Commission. No action of the Commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the Commission are cast in favor thereof. Action of the Commission shall be only at a meeting at which a majority of the Commissioners are present. The Commission shall meet at least once a year. In its bylaws, and subject to such directions and limitations as may be contained therein, the Commission may delegate the exercise of any of its powers to the steering committee or the Executive Director, except for the power to approve budgets or requests for appropriations, the power to make policy recommendations pursuant to Article IV and adoption of the annual report pursuant to Article III(J).
- C. The Commission shall have a seal.
- D. The Commission shall elect annually, from among its members, a chair, who shall be a Governor, a vice-chair and a treasurer. The Commission shall provide for the appointment of an executive director. Such executive director shall serve at the pleasure of the Commission, and together with the treasurer and such other personnel as the Commission may deem appropriate shall be bonded in such amount as the Commission shall determine. The executive director shall be secretary.
- E. Irrespective of the civil service, personnel or other merit system laws of any of the party States, the executive director subject to the approval of the steering committee shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the Commission, and shall fix the duties and compensation of such personnel. The Commission in its bylaws shall provide for the personnel policies and programs of the Commission.
- F. The Commission may borrow, accept or contract for the services of personnel from any party jurisdiction, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party jurisdictions or their subdivisions.
- G. The Commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any State, the United States, or any other governmental agency, or from any person, firm, association, foundation, or corporation, and may receive, utilize and dispose of the same. Any donation or grant accepted by the Commission pursuant to this paragraph or services borrowed pursuant to paragraph (F) of this Article shall be reported in the annual report of the Commission. Such report shall include the nature, amount and conditions, if any, of the donation, grant, or services borrowed, and the identity of the donor or lender.
- H. The Commission may establish and maintain such facilities as may be necessary for the transacting of

its business. The Commission may acquire, hold, and convey real and personal property and any interest therein.

- I. The Commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The Commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party States.
- J. The Commission annually shall make to the Governor and legislature of each party State a report covering the activities of the Commission for the preceding year. The Commission may make such additional reports as it may deem desirable.

ARTICLE IV—POWERS

In addition to authority conferred on the Commission by other provisions of the compact, the Commission shall have authority to:

1. Collect, correlate, analyze and interpret information and data concerning educational needs and resources.
2. Encourage and foster research in all aspects of education, but with special reference to the desirable scope of instruction, organization, administration, and instructional methods and standards employed or suitable for employment in public educational systems.
3. Develop proposals for adequate financing of education as a whole and at each of its many levels.
4. Conduct or participate in research of the types referred to in this Article in any instance where the Commission finds that such research is necessary for the advancement of the purposes and policies of this compact, utilizing fully the resources of national associations, regional compact organizations for higher education, and other agencies and institutions, both public and private.
5. Formulate suggested policies and plans for the improvement of public education as a whole, or for any segment thereof, and make recommendations with respect thereto available to the appropriate governmental units, agencies and public officials.
6. Do such other things as may be necessary or incidental to the administration of any of its authority or functions pursuant to this compact.

ARTICLE V—COOPERATION WITH FEDERAL GOVERNMENT

- A. If the laws of the United States specifically so provide, or if administrative provision is made therefor within the Federal Government, the United States may be represented on the Commission by not to exceed ten representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to Federal law, and may be drawn from any one or more branches of the Federal Government, but no such representative shall have a vote on the Commission.
- B. The Commission may provide information and make recommendations to any executive or legislative agency or officer of the Federal Government concerning the common educational policies of the

States, and may advise with any such agencies or officers concerning any matter of mutual interest.

ARTICLE VI—COMMITTEES

- A. To assist in the expeditious conduct of its business when the full Commission is not meeting, the Commission shall elect a steering committee of thirty-two members which, subject to the provisions of this compact and consistent with the policies of the Commission, shall be constituted and function as provided in the bylaws of the Commission. One-fourth of the voting membership of the steering committee shall consist of Governors, one-fourth shall consist of Legislators, and the remainder shall consist of other members of the Commission. A Federal representative on the Commission may serve with the steering committee, but without vote. The voting members of the steering committee shall serve for terms of two years, except that members elected to the first steering committee of the Commission shall be elected as follows: sixteen for one year and sixteen for two years. The chair, vice -chair, and treasurer of the Commission shall be members of the steering committee and, anything in this paragraph to the contrary notwithstanding, shall serve during their continuance in these offices. Vacancies in the steering committee shall not affect its authority to act, but the Commission at its next regularly ensuing meeting following the occurrence of any vacancy shall fill it for the unexpired term. No person shall serve more than two terms as a member of the steering committee; provided that service for a partial term of one year or less shall not be counted toward the two term limitation.
- B. The Commission may establish advisory and technical committees composed of State, local, and Federal officials, and private persons to advise it with respect to any one or more of its functions. Any advisory or technical committee may, on request of the States concerned, be established to consider any matter of special concern to two or more of the party States.
- C. The Commission may establish such additional committees as its bylaws may provide.

ARTICLE VII—FINANCE

- A. The Commission shall advise the Governor or designated officer or officers of each party State of its budget and estimated expenditures for such period as may be required by the laws of that party State. Each of the Commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party States.
- B. The total amount of appropriation requests under any budget shall be apportioned among the party States. In making such apportionment, the Commission shall devise and employ a formula which takes equitable account of the populations and per capita income levels of the party States.

- C. The Commission shall not pledge the credit of any party States. The Commission may meet any of its obligations in whole or in part with funds available to it pursuant to Article III(G) of this compact, provided that the Commission takes specific action setting aside such funds prior to incurring an obligation to be met in whole or in part in such manner. Except where the Commission makes use of funds available to it pursuant to Article III(G) thereof, the Commission shall not incur any obligation prior to the allotment of funds by the party States adequate to meet the same.
- D. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established by its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified public accountant, and the report of the audit shall be included in and become part of the annual reports of the Commission.
- E. The accounts of the Commission shall be open at any reasonable time for inspection by duly constituted officers of the party States and by any persons authorized by the Commission.
- F. Nothing contained herein shall be construed to prevent Commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the Commission.

ARTICLE VIII—ELIGIBLE PARTIES; ENTRY INTO AND WITHDRAWAL

- A. This compact shall have as eligible parties all States, Territories, and Possessions of the United States, the District of members of the Commission from his or her State, and shall provide to the Commission an equitable share of the financial support of the Commission from any source available to him or her.
- B. Any state or other eligible jurisdiction may enter into this compact and it shall become binding thereon when it has adopted the same: provided that in order to enter into initial effect, adoption by at least ten eligible party jurisdictions shall be required.
- C. Adoption of the compact may be either by enactment thereof or by adherence thereto by the Governor; provided that in the absence of enactment, adherence by the Governor shall be sufficient to make his State a party only until December 31, 1967. During any period when a State is participating in this compact through gubernatorial action, the Governor shall appoint those persons who, in addition to himself, shall serve as the members of the Commission from his State, and shall provide to the Commission an equitable share of the financial support of the Commission from any source available to him.
- D. Except for a withdrawal effective on December 31, 1967 in accordance with paragraph C of this

Article, any party State may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the Governor of the withdrawing State has given notice in writing of the withdrawal to the Governors of all other party States. No withdrawal shall affect any liability already incurred by or chargeable to a party State prior to the time of such withdrawal.

ARTICLE IX—CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any State or of the United States, or the application thereof to any Government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any Government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any State participating therein, the compact shall remain in full force and effect as to the State affected as to all severable matters. [1990 c 33 § 548; 1969 ex.s. c 223 § 28A.92.010. Prior: 1967 c 83 § 1. Formerly RCW 28A.92.010, 28.92.010.]

Reviser's note: The sentence contained in Subpart C of Article VI was inadvertently included as the last sentence of Subpart B when this section was recodified by chapter 33, Laws of 1990. The code reviser's office has corrected this error.

28A.695.020 State representation on education commission—Members, both designated and appointed. The seven members of the education commission of the states representing the state of Washington are designated or shall be appointed as follows: (1) The governor; (2) a member of the senate appointed by the president; (3) a member of the house of representatives appointed by the speaker; and (4) four members appointed by the governor. Appointments shall be made in accordance with the guiding principles set forth in Article III(A) of the compact. [1969 ex.s. c 223 § 28A.92.020. Prior: 1967 c 83 § 2. Formerly RCW 28A.92.020, 28.92.020.]

28A.695.030 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 the governor's pleasure. [1990 c 33 § 549; 1980 c 87 § 7; 1969 ex.s. c 223 § 28A.92.030. Prior: 1967 c 83 § 3. Formerly RCW 28A.92.030, 28.92.030.]

28A.695.040 State representation on education commission—Chair—Cooperation with other entities—Employees. The governor or a member designated by the

governor shall be chair of the members of the commission representing this state.

The commissioners shall cooperate with all public and private entities having an interest in educational matters.

The commissioners may employ such professional, technical and clerical assistance as may be required to aid them in carrying out their functions in this chapter prescribed. [1990 c 33 § 550; 1969 ex.s. c 223 § 28A.92.040. Prior: 1967 c 83 § 4. Formerly RCW 28A.92.040, 28.92.040.]

28A.695.050 State representation on education commission—Payment of travel expenses of members—Limitations. Each member of the commission from the state of Washington shall be paid, from funds appropriated by the legislature of the state of Washington for that purpose, travel expenses in accordance with RCW 43.03.050 and 43.03.060. Such member may, regardless of any charter or statutory provision to the contrary, be an officer or employee holding another public position. [1984 c 287 § 61; 1975-'76 2nd ex.s. c 34 § 71; 1969 ex.s. c 223 § 28A.92.050. Prior: 1967 c 83 § 5. Formerly RCW 28A.92.050, 28.92.050.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

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

28A.695.060 State representation on education commission—Grant of powers to commissioners. There is hereby granted to the commissioners representing this state all the powers provided for in said compact and all powers necessary or incidental to the carrying out of said compact in every particular. [1969 ex.s. c 223 § 28A.92.060. Prior: 1967 c 83 § 6. Formerly RCW 28A.92.060, 28.92.060.]

28A.695.070 State officers to aid in implementation of compact. All officers of this state are hereby authorized and directed to do all things, falling within their respective provinces and jurisdiction, necessary to or incidental to the carrying out of the compact for education in every particular. All officers, bureaus, departments and persons of and in the government or administration of this state are hereby authorized and directed, at convenient times and upon the request of the commissioners representing this state, to furnish the education commission with information and data possessed by them or any of them, and to aid the commission by any means lying within their legal powers respectively. [1969 ex.s. c 223 § 28A.92.070. Prior: 1967 c 83 § 7. Formerly RCW 28A.92.070, 28.92.070.]

28A.695.080 Bylaws to be filed with secretary of state. Pursuant to Article III(I) of the compact, the commission shall file a copy of its bylaws and any amendment thereto with the secretary of state. [1969 ex.s. c 223 § 28A.92.080. Prior: 1967 c 83 § 8. Formerly RCW 28A.92.080, 28.92.080.]

Chapter 28A.900
CONSTRUCTION

[1969 ex.s. c 223 § 28A.98.060. Formerly RCW 28A.98.060.]

Sections

28A.900.010	Repeals and savings.
28A.900.030	Continuation of existing law.
28A.900.040	Provisions to be construed in pari materia.
28A.900.050	Title, chapter, section headings not part of law.
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28A.900.070	"This code" defined.
28A.900.080	Effective date—1969 ex.s. c 223.
28A.900.100	Purpose—1990 c 33.
28A.900.101	Statutory references—1990 c 33.
28A.900.102	Severability—1990 c 33.
28A.900.103	Subheadings not law—1990 c 33.

28A.900.010 Repeals and savings. See 1969 ex.s. c 223 § 28A.98.010. Formerly RCW 28A.98.010.

28A.900.030 Continuation of existing law. The provisions of this title, Title 28A RCW, insofar as they are substantially the same as statutory provisions repealed by this chapter, and relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments. Nothing in this 1969 code revision of Title 28 RCW shall be construed as authorizing any new bond issues or new or additional appropriations of moneys but the bond issue authorizations herein contained shall be construed only as continuations of bond issues authorized by prior laws herein repealed and reenacted, and the appropriations of moneys herein contained are continued herein for historical purposes only and this 1969 act shall not be construed as a reappropriation thereof and no appropriation contained herein shall be deemed to be extended or revived hereby and such appropriation shall lapse or shall have lapsed in accordance with the original enactment: PROVIDED, That this 1969 act shall not operate to terminate, extend or otherwise affect any appropriation for the biennium commencing July 1, 1967, and ending June 30, 1969. [1969 ex.s. c 223 § 28A.98.030. Formerly RCW 28A.98.030.]

28A.900.040 Provisions to be construed in pari materia. The provisions of this title, Title 28A RCW, shall be construed in pari materia even though as a matter of prior legislative history they were not originally enacted in the same statute. The provisions of this title shall also be construed in pari materia with the provisions of Title 28B RCW, and with other laws relating to education. This section shall not operate retroactively. [1969 ex.s. c 223 § 28A.98.040. Formerly RCW 28A.98.040.]

28A.900.050 Title, chapter, section headings not part of law. Title headings, chapter headings, and section or subsection headings, as used in this title, Title 28A RCW, do not constitute any part of the law. [1969 ex.s. c 223 § 28A.98.050. Formerly RCW 28A.98.050.]

28A.900.060 Invalidity of part of title not to affect remainder. If any provision of this title, Title 28A RCW, or its application to any person or circumstance is held invalid, the remainder of the title, or the application of the provision to other persons or circumstances is not affected.

28A.900.070 "This code" defined. As used in this title, Title 28A RCW, "this code" means Titles 28A and 28B RCW. [1969 ex.s. c 223 § 28A.98.070. Formerly RCW 28A.98.070.]

28A.900.080 Effective date—1969 ex.s. c 223. Title 28A RCW shall be effective July 1, 1970. [1969 ex.s. c 223 § 28A.98.080. Formerly RCW 28A.98.080.]

28A.900.100 Purpose—1990 c 33. (1) The purpose of *this act is to reorganize Title 28A RCW. There are three goals to this reorganization: (a) To place related sections in chapters organized by subject matter; (b) to make all terms gender neutral; and (c) to clarify existing language. *This act is technical in nature and is not intended to make substantive changes in the meaning, interpretation, court construction, or constitutionality of any provision of Title 28A RCW or other statutory provisions included in *this act and rules adopted under those provisions.

(2) *This act shall not have the effect of terminating or in any way modifying any proceedings or liability, civil or criminal, which exists on June 7, 1990. [1990 c 33 § 1.]

*Reviser's note: For codification of "this act" [1990 c 33], see Codification Tables, Volume 0.

28A.900.101 Statutory references—1990 c 33. (1) The code reviser shall correct all statutory references to code sections recodified by *section 4 of this act.

(2)(a) References to "RCW 28A.47.732 through 28A.47.748" in Title 28A RCW have intentionally not been changed since those code sections were repealed by chapter 189, Laws of 1983. These references are not being eliminated because it is not the purpose of this act to correct obsolete references.

(b) References to "RCW 28A.58.095" in Title 28A RCW have intentionally not been changed since that code section was repealed by chapter 2, Laws of 1987 1st ex. sess. These references are not being eliminated because it is not the purpose of this act to correct obsolete references. [1990 c 33 § 2.]

*Reviser's note: Section 4 of this act is an uncodified section that recodifies sections in Title 28A RCW.

28A.900.102 Severability—1990 c 33. 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. [1990 c 33 § 603.]

28A.900.103 Subheadings not law—1990 c 33. Subheadings as used in this act do not constitute any part of the law. [1990 c 33 § 3.]

Title 28B

HIGHER EDUCATION

Chapters

- 28B.04** Displaced homemaker act.
- 28B.07** Washington higher education facilities authority—Private nonprofit educational institutions.
- 28B.10** Colleges and universities generally.
- 28B.12** College work-study program.
- 28B.13** 1974 Bond issue for capital improvements for institutions of higher education.
- 28B.14** 1975 Bond issue for capital improvements for institutions of higher education.
- 28B.14B** 1977 Bond issue for capital improvements for institutions of higher education.
- 28B.14C** 1977 Bond act for the refunding of outstanding limited obligation revenue bonds of institutions of higher education.
- 28B.14D** 1979 Bond issue for capital improvements for institutions of higher education.
- 28B.14E** 1979 Bond issue for capital improvements for institutions of higher education.
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- 28B.900** Construction.
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Chapter 28B.04 DISPLACED HOMEMAKER ACT

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28B.04.010 Short title.
28B.04.020 Legislative findings—Purpose.
28B.04.030 Definitions.
28B.04.040 Multipurpose service centers—Contracts for—Rules embodying standards for—Funds for.
28B.04.050 Multipurpose service centers—Referral to services by—Displaced homemakers as staff.
28B.04.060 Contracting for specific programs.
28B.04.070 Evaluation—Recommendations.
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28B.04.085 Displaced homemaker program advisory committee.
28B.04.090 Considerations when awarding contracts.
28B.04.100 Percentage of funding for centers or program to be provided by administering organization.
28B.04.110 Acceptance and use of contributions authorized—Qualifications.
28B.04.120 Discrimination prohibited.

28B.04.010 Short title. This chapter may be known and cited as the "displaced homemaker act." [1979 c 73 § 1.]

28B.04.020 Legislative findings—Purpose. The legislature finds that homemakers are an unrecognized part of the work force who make an invaluable contribution to the strength, durability, and purpose of our state.

The legislature further finds that there is an increasing number of persons in this state who, having fulfilled a role as homemaker, find themselves "displaced" in their middle years through divorce, death of spouse, disability of spouse, or other loss of family income of a spouse. As a consequence, displaced homemakers are very often left with little or no income; they are ineligible for categorical welfare assistance; they are subject to the highest rate of unemployment of any sector of the work force; they face continuing discrimination in employment because of their age and lack of recent paid work experience; they are ineligible for unemployment insurance because they have been engaged in unpaid labor in the home; they are ineligible for social security benefits because they are too young, and many never qualify because they have been divorced from the family wage earner; they may have lost beneficiaries' rights under employer's pension and health plans through divorce or death of spouse; and they are often unacceptable to private health insurance plans because of their age.

It is the purpose of this chapter to establish guidelines under which the higher education coordinating board shall

contract to establish multipurpose service centers and programs to provide necessary training opportunities, counseling, and services for displaced homemakers so that they may enjoy the independence and economic security vital to a productive life. [1985 c 370 § 36; 1982 1st ex.s. c 15 § 1; 1979 c 73 § 2.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

28B.04.030 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Board" means the higher education coordinating board.

(2) "Center" means a multipurpose service center for displaced homemakers as described in RCW 28B.04.040.

(3) "Program" means those programs described in RCW 28B.04.050 which provide direct, outreach, and information and training services which serve the needs of displaced homemakers.

(4) "Displaced homemaker" means an individual who:

(a) Has worked in the home for ten or more years providing unsalaried household services for family members on a full-time basis; and

(b) Is not gainfully employed;

(c) Needs assistance in securing employment; and

(d) Has been dependent on the income of another family member but is no longer supported by that income, or has been dependent on federal assistance but is no longer eligible for that assistance, or is supported as the parent of minor children by public assistance or spousal support but whose children are within two years of reaching their majority. [1985 c 370 § 37; 1979 c 73 § 3.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

28B.04.040 Multipurpose service centers—Contracts for—Rules embodying standards for—Funds for. (1) The board, in consultation with state and local governmental agencies, community groups, and local and national organizations concerned with displaced homemakers, shall receive applications and may contract with public or private nonprofit organizations to establish multipurpose service centers for displaced homemakers. In determining sites and administering agencies or organizations for the centers, the board shall consider the experience and capabilities of the public or private nonprofit organizations making application to provide services to a center.

(2) The board shall issue rules prescribing the standards to be met by each center in accordance with the policies set forth in this chapter. Continuing funds for the maintenance of each center shall be contingent upon the determination by the board that the center is in compliance with the contractual conditions and with the rules prescribed by the board. [1985 c 370 § 38; 1982 1st ex.s. c 15 § 2; 1979 c 73 § 4.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

28B.04.050 Multipurpose service centers—Referral to services by—Displaced homemakers as staff. (1) Each

center contracted for under this chapter shall include or provide information and referral to the following services:

(a) Job counseling services which shall:

(i) Be specifically designed for displaced homemakers;

(ii) Counsel displaced homemakers with respect to appropriate job opportunities; and

(iii) Take into account and build upon the skills and experience of a homemaker and emphasize job readiness as well as skill development;

(b) Job training and job placement services which shall:

(i) Emphasize short-term training programs and programs which expand upon homemaking skills and volunteer experience and which lead to gainful employment;

(ii) Develop, through cooperation with state and local government agencies and private employers, model training and placement programs for jobs in the public and private sectors;

(iii) Assist displaced homemakers in gaining admission to existing public and private job training programs and opportunities, including vocational education and apprenticeship training programs; and

(iv) Assist in identifying community needs and creating new jobs in the public and private sectors;

(c) Health counseling services, including referral to existing health programs, with respect to:

(i) General principles of preventative health care;

(ii) Health care consumer education, particularly in the selection of physicians and health care services, including, but not limited to, health maintenance organizations and health insurance;

(iii) Family health care and nutrition;

(iv) Alcohol and drug abuse; and

(v) Other related health care matters;

(d) Financial management services which provide information and assistance with respect to insurance, taxes, estate and probate problems, mortgages, loans, and other related financial matters;

(e) Educational services, including:

(i) Outreach and information about courses offering credit through secondary or postsecondary education programs, and other re-entry programs, including bilingual programming where appropriate; and

(ii) Information about such other programs as are determined to be of interest and benefit to displaced homemakers by the board;

(f) Legal counseling and referral services; and

(g) Outreach and information services with respect to federal and state employment, education, health, public assistance, and unemployment assistance programs which the board determines would be of interest and benefit to displaced homemakers.

(2) The staff positions of each multipurpose center contracted for in accordance with RCW 28B.04.040, including supervisory, technical, and administrative positions, shall, to the maximum extent possible, be filled by displaced homemakers. [1985 c 370 § 39; 1982 1st ex.s. c 15 § 3; 1979 c 73 § 5.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

28B.04.060 Contracting for specific programs. The board may contract, where appropriate, with public or private

nonprofit groups or organizations serving the needs of displaced homemakers for programs designed to:

(1) Provide direct services to displaced homemakers, including job counseling, job training and placement, health counseling, financial management, educational counseling, legal counseling, and referral services as described in RCW 28B.04.050;

(2) Provide state-wide outreach and information services for displaced homemakers; and

(3) Provide training opportunities for persons serving the needs of displaced homemakers, including those persons in areas not directly served by programs and centers established under this chapter. [1985 c 370 § 40; 1982 1st ex.s. c 15 § 4; 1979 c 73 § 6.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

28B.04.070 Evaluation—Recommendations. Subject to RCW 40.07.040, the board shall submit to the legislature a biennial evaluation through 1990. The evaluations may include recommendation for future programs as determined by the board. [1987 c 505 § 10; 1985 c 370 § 41; 1982 1st ex.s. c 15 § 5; 1979 c 73 § 7.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

28B.04.080 Consultation and cooperation with other agencies—Agency report of available services and funds therefor—Board as clearinghouse for information and resources. (1) The board shall consult and cooperate with the department of social and health services; the *state board for community college education; the superintendent of public instruction; the **commission for vocational education; the employment security department; the department of labor and industries; sponsoring agencies under the federal comprehensive employment and training act (87 Stat. 839; 29 U.S.C. Sec. 801 et seq.), and any other persons or agencies as the board deems appropriate to facilitate the coordination of centers established under this chapter with existing programs of a similar nature.

(2) Annually on July 1st, each agency listed in subsection (1) of this section shall submit a description of each service or program under its jurisdiction which would support the programs and centers established by this chapter and the funds available for such support.

(3) The board shall serve as a clearinghouse for displaced homemaker information and resources and shall compile and disseminate state-wide information to the centers, related agencies, and interested persons upon request. [1985 c 370 § 42; 1982 1st ex.s. c 15 § 6; 1979 c 73 § 8.]

Reviser's note: *(1) The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

** (2) The commission on vocational education and its powers and duties, pursuant to the Sunset Act, chapter 43.131 RCW, were terminated June 30, 1986, and repealed June 30, 1987. See 1983 c 197 §§ 17 and 43.

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

28B.04.085 Displaced homemaker program advisory committee. (1) The executive coordinator of the higher

education coordinating board shall establish an advisory committee, to be known as the displaced homemaker program advisory committee.

(2) The advisory committee shall be advisory to the executive coordinator and staff of the board.

(3) Committee membership shall not exceed twenty-two persons and shall be geographically and generally representative of the state. At least one member of the advisory committee shall either be or recently have been a displaced homemaker.

(4) Functions of the advisory committee shall be:

(a) To provide advice on all aspects of administration of the displaced homemaker program, including content of program rules, guidelines, and application procedures;

(b) To assist in coordination of activities under the displaced homemaker program with related activities of other state and federal agencies, with particular emphasis on facilitation of coordinated funding. [1987 c 230 § 2.]

Effective date—1987 c 230: See note following RCW 36.18.010.

28B.04.090 Considerations when awarding contracts. In the awarding of contracts under this chapter, consideration shall be given to need, geographic location, population ratios, and the extent of existing services. [1979 c 73 § 9.]

28B.04.100 Percentage of funding for centers or program to be provided by administering organization. Thirty percent of the funding for the centers and programs under this chapter shall be provided by the organization administering the center or program. Contributions in-kind, whether materials and supplies, physical facilities, or personal services, may be considered as all or part of the funding provided by the organization. [1979 c 73 § 10.]

28B.04.110 Acceptance and use of contributions authorized—Qualifications. The board may, in carrying out this chapter, accept, use, and dispose of contributions of money, services, and property: PROVIDED, That funds generated within individual centers may be retained and utilized by those centers. All moneys received by the board or any employee thereof pursuant to this section shall be deposited in a depository approved by the state treasurer. Disbursements of such funds shall be on authorization of the board or a duly authorized representative thereof. In order to maintain an effective expenditure and revenue control such funds shall be subject in all respects to chapter 43.88 RCW, but no appropriation shall be required to permit expenditure of such funds. [1985 c 370 § 43; 1979 c 73 § 11.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

28B.04.120 Discrimination prohibited. No person in this state, on the ground of sex, age, race, color, religion, national origin, or the presence of any sensory, mental, or physical handicap, shall be excluded from participating in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this chapter. [1979 c 73 § 12.]

Chapter 28B.07

WASHINGTON HIGHER EDUCATION FACILITIES
AUTHORITY—PRIVATE NONPROFIT
EDUCATIONAL INSTITUTIONS

Sections

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28B.07.010 Intent. The legislature finds that the state has a vital interest in ensuring that higher education institutions are maintained in the state in sufficient numbers and located in such locations, as to be accessible to as many citizens as possible. Adequate educational opportunities are essential to the economic, intellectual, and social well-being of the state and its people. Washington's independently-governed private nonprofit higher education institutions are a necessary part of the state's higher educational resources. They provide educational diversity and choice for all residents of the communities in which they are located, communities which may not otherwise be served directly by a public baccalaureate-granting college or university.

The legislature further finds that some of the factors that contribute to educational costs are beyond the control of these higher education institutions and their governing boards. The factors include the need to modify facilities to render the facilities accessible to the handicapped or disabled, the necessity of modernizing structures to keep them safe and efficient, and the demands of energy conservation and resource utilization. Many of these needs are associated with the public functions these institutions perform and the requirements of the state and federal governments. Compounding the problem is the fact that the cost of these renovations are borne entirely by the institutions.

Because these institutions serve an important public purpose addressing both the needs of individuals and the needs of the state, and because the performance of that public function can be facilitated at no expense or liability to the state, the legislature declares it to be the public policy of the state of Washington to enable the building, providing, and utilization of modern, well-equipped, efficient, and reasonably priced higher educational facilities, as well as the improvement, expansion, and modernization of such facilities, in a manner that will minimize the capital cost of

construction, financing, and use of such facilities. The intention of this policy is to improve and ensure the quality and range of educational services available to the citizens of this state. The intent of the legislature is to accomplish these and related purposes, and this chapter shall be liberally construed in order to further these goals. [1983 c 169 § 1.]

28B.07.020 Definitions. As used in this chapter, the following words and terms shall have the following meanings, unless the context otherwise requires:

(1) "Authority" means the Washington higher education facilities authority created under RCW 28B.07.030 or any board, body, commission, department or officer succeeding to the principal functions of the authority or to whom the powers conferred upon the authority shall be given by law.

(2) "Bonds" means bonds, notes, commercial paper, certificates of indebtedness, or other evidences of indebtedness of the authority issued under this chapter.

(3) "Bond resolution" means any resolution of the authority, adopted under this chapter, authorizing the issuance and sale of bonds.

(4) "Higher education institution" means a private, nonprofit educational institution, the main campus of which is permanently situated in the state, which is open to residents of the state, which neither restricts entry on racial or religious grounds, which provides programs of education beyond high school leading at least to the baccalaureate degree, and which is accredited by the Northwest Association of Schools and Colleges or by an accrediting association recognized by the higher education coordinating board.

(5) "Participant" means a higher education institution which, under this chapter, undertakes the financing of a project or projects or undertakes the refunding or refinancing of obligations, mortgages, or advances previously incurred for a project or projects.

(6) "Project" means any land or any improvement, including, but not limited to, buildings, structures, fixtures, utilities, machinery, excavations, paving, and landscaping, and any interest in such land or improvements, and any personal property pertaining or useful to such land and improvements, which are necessary, useful, or convenient for the operation of a higher education institution, including but not limited to, the following: Dormitories or other multi-unit housing facilities for students, faculty, officers, or employees; dining halls; student unions; administration buildings; academic buildings; libraries; laboratories; research facilities; computer facilities; classrooms; athletic facilities; health care facilities; maintenance, storage, or utility facilities; parking facilities; or any combination thereof, or any other structures, facilities, or equipment so related.

(7) "Project cost" means any cost related to the acquisition, construction, improvement, alteration, or rehabilitation by a participant or the authority of any project and the financing of the project through the authority, including, but not limited to, the following costs paid or incurred: Costs of acquisition of land or interests in land and any improvement; costs of contractors, builders, laborers, materialmen, and suppliers of tools and equipment; costs of surety and performance bonds; fees and disbursements of architects, surveyors, engineers, feasibility consultants, accountants, attorneys, financial consultants, and other professionals;

interest on bonds issued by the authority during any period of construction; principal of and interest on interim financing of any project; debt service reserve funds; depreciation funds, costs of the initial start-up operation of any project; fees for title insurance, document recording, or filing; fees of trustees and the authority; taxes and other governmental charges levied or assessed on any project; and any other similar costs. Except as specifically set forth in this definition, the term "project cost" does not include books, fuel, supplies, and similar items which are required to be treated as a current expense under generally accepted accounting principles.

(8) "Trust indenture" means any agreement, trust indenture, or other similar instrument by and between the authority and one or more corporate trustees. [1985 c 370 § 47; 1983 c 169 § 2.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

28B.07.030 Washington higher education facilities authority—Created—Members—Chairperson—Records—Quorum—Compensation and travel expenses.

(1) The Washington higher education facilities authority is hereby established as a public body corporate and politic, with perpetual corporate succession, constituting an agency of the state of Washington exercising essential governmental functions. The authority is a "public body" within the meaning of RCW 39.53.010.

(2) The authority shall consist of seven members as follows: The governor, lieutenant governor, executive director of the higher education coordinating board, and four public members, one of whom shall be the president of a higher education institution at the time of appointment. The public members shall be residents of the state and appointed by the governor, subject to confirmation by the senate, on the basis of their interest or expertise in the provision of higher education and the financing of higher education. The public members of the authority shall serve for terms of four years. The initial terms of the public members shall be staggered in a manner determined by the governor. In the event of a vacancy on the authority due to death, resignation, or removal of one of the public members, and upon the expiration of the term of any public member, the governor shall appoint a successor for a term expiring on the fourth anniversary of the successor's date of the appointment. If any of the state offices are abolished, the resulting vacancy on the authority shall be filled by the state officer who shall succeed substantially to the power and duties of the abolished office. Any public member of the authority may be removed by the governor for misfeasance, malfeasance, wilful neglect of duty, or any other cause after notice and a public hearing, unless such notice and hearing shall be expressly waived in writing.

(3) The governor shall serve as chairperson of the authority. The authority shall elect annually one of its members as secretary. If the governor shall be absent from a meeting of the authority, the secretary shall preside. However, the governor may designate an employee of the governor's office to act on the governor's behalf in all other respects during the absence of the governor at any meeting of the authority. If the designation is in writing and is presented to the person presiding at the meetings of the

authority who is included in the designation, the vote of the designee has the same effect as if cast by the governor.

(4) Any person designated by resolution of the authority shall keep a record of the proceedings of the authority and shall be the custodian of all books, documents, and papers filed with the authority, the minute book or a journal of the authority, and the authority's official seal, if any. The person may cause copies to be made of all minutes and other records and documents of the authority, and may give certificates to the effect that such copies are true copies. All persons dealing with the authority may rely upon the certificates.

(5) Four members of the authority constitute a quorum. The authority may act on the basis of a motion except when authorizing the issuance and sale of bonds, in which case the authority shall act by resolution. Bond resolutions and other resolutions shall be adopted upon the affirmative vote of four members of the authority, and shall be signed by those members voting yes. Motions shall be adopted upon the affirmative vote of a majority of a quorum of members present at any meeting of the authority. All actions taken by the authority shall take effect immediately without need for publication or other public notice. A vacancy in the membership of the authority does not impair the power of the authority to act under this chapter.

(6) The members of the authority shall be compensated in accordance with RCW 43.03.240 and shall be entitled to reimbursement, solely from the funds of the authority, for travel expenses as determined by the authority incurred in the discharge of their duties under this chapter. [1985 c 370 § 48; 1984 c 287 § 62; 1983 c 169 § 3.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

28B.07.040 Powers and duties. The authority is authorized and empowered to do the following, on such terms, with such security and undertakings, subject to such conditions, and in return for such consideration, as the authority shall determine in its discretion to be necessary, useful, or convenient in accomplishing the purposes of this chapter:

(1) To promulgate rules in accordance with chapter 34.05 RCW;

(2) To adopt an official seal and to alter the same at pleasure;

(3) To maintain an office at any place or places as the authority may designate;

(4) To sue and be sued in its own name, and to plead and be pleaded;

(5) To make and execute agreements with participants and others and all other instruments necessary, useful, or convenient for the accomplishment of the purposes of this chapter;

(6) To provide long-term or short-term financing or refinancing to participants for project costs, by way of loan, lease, conditional sales contract, mortgage, option to purchase, or other financing or security device or any such combination;

(7) If, in order to provide to participants the financing or refinancing of project costs described in subsection (6) of

this section, the authority deems it necessary or convenient for it to own a project or projects or any part of a project or projects, for any period of time, it may acquire, contract, improve, alter, rehabilitate, repair, manage, operate, mortgage, subject to a security interest, lease, sell, or convey the project;

(8) To fix, revise from time to time, and charge and collect from participants and others rates, rents, fees, charges, and repayments as necessary to fully and timely reimburse the authority for all expenses incurred by it in providing the financing and refinancing and other services under this section and for the repayment, when due, of all the principal of, redemption premium, if any, and interest on all bonds issued under this chapter to provide the financing, refinancing, and services;

(9) To accept and receive funds, grants, gifts, pledges, guarantees, mortgages, trust deeds, and other security instruments, and property from the federal government or the state or other public body, entity, or agency and from any public or private institution, association, corporation, or organization, including participants. It shall not accept or receive from the state or any taxing agency any money derived from taxes, except money to be devoted to the purposes of a project of the state or of a taxing agency;

(10) To open and maintain a bank account or accounts in one or more qualified public depositories in this state and to deposit all or any part of authority funds therein;

(11) To employ consulting engineers, architects, attorneys, accountants, construction and financial experts, superintendents, managers, an executive director, and such other employees and agents as may be necessary in its judgment to carry out the purposes of this chapter, and to fix their compensation;

(12) To provide financing or refinancing to two or more participants for a single project or for several projects in such combinations as the authority deems necessary, useful, or convenient;

(13) To charge to and equitably apportion among participants the administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter;

(14) To consult with the higher education coordinating board to determine project priorities under the purposes of this chapter; and

(15) To do all other things necessary, useful, or convenient to carry out the purposes of this chapter.

In the exercise of any of these powers, the authority shall incur no expense or liability which shall be an obligation, either general or special, of the state, or a general obligation of the authority, and shall pay no expense or liability from funds other than funds of the authority. Funds of the state shall not be used for such purpose. [1985 c 370 § 49; 1983 c 169 § 4.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

28B.07.050 Special obligation bonds—Issuance—Personal liability—Debt limit. (1) The authority may, from time to time, issue its special obligation bonds in order to carry out the purposes of this chapter and to enable the authority to exercise any of the powers granted to it in this chapter. The bonds shall be issued pursuant to a bond

resolution or trust indenture and shall be payable solely out of the special fund or funds created by the authority in the bond resolution or trust indenture. The special fund or funds shall be funded in whole or in part from moneys paid by one or more participants for whose benefit such bonds were issued and from the sources, if any, described in RCW 28B.07.040(9) or from the proceeds of bonds issued by the authority for the purpose of refunding any outstanding bonds of the authority.

(2) The bonds may be secured by:

(a) A first lien against any unexpended proceeds of the bonds;

(b) A first lien against moneys in the special fund or funds created by the authority for their payment;

(c) A first or subordinate lien against the revenue and receipts of the participant or participants which revenue is derived in whole or in part from the project financed by the authority;

(d) A first or subordinate security interest against any real or personal property, tangible or intangible, of the participant or participants, including, but not limited to, the project financed by the authority;

(e) Any other real or personal property, tangible or intangible; or

(f) Any combination of (a) through (e) of this subsection.

Any security interest created against the unexpended bond proceeds and against the special funds created by the authority shall be immediately valid and binding against the moneys and any securities in which the moneys may be invested without authority or trustee possession, and the security interest shall be prior to any party having any competing claim against the moneys or securities, without filing or recording under Article 9 of the Uniform Commercial Code, Title 62A RCW, and regardless of whether the party has notice of the security interest.

(3) The bonds may be issued as serial bonds or as term bonds or any such combination. The bonds shall bear such date or dates; mature at such time or times; bear interest at such rate or rates, either fixed or variable; be payable at such time or times; be in such denominations; be in such form, either coupon or registered, or both; carry such registration privileges; be made transferable, exchangeable, and interchangeable; be payable in lawful money of the United States of America at such place or places; be subject to such terms of redemption; and be sold at public or private sale, in such manner, at such time, and at such price as the authority shall determine. The bonds shall be executed by the manual or facsimile signatures of the chairperson and the authority's duly-elected secretary or its executive director, and by the trustee if the authority determines to use a trustee. At least one signature shall be manually subscribed. Coupon bonds shall have attached interest coupons bearing the facsimile signatures of the chairperson and the secretary or the executive director.

(4) Any bond resolution, trust indenture, or agreement with a participant relating to bonds issued by the authority or the financing or refinancing made available by the authority may contain provisions, which may be made a part of the contract with the holders or owners of the bonds to be issued, pertaining to the following, among other matters: (a) The security interests granted by the participant to secure

repayment of any amounts financed and the performance by the participant of its other obligations in the financing; (b) the security interests granted to the holders or owners of the bonds to secure repayment of the bonds; (c) rentals, fees, and other amounts to be charged, and the sums to be raised in each year through such charges, and the use, investment, and disposition of the sums; (d) the segregation of reserves or sinking funds, and the regulation, investment, and disposition thereof; (e) limitations on the uses of the project; (f) limitations on the purposes to which, or the investments in which, the proceeds of the sale of any issue of bonds may be applied; (g) terms pertaining to the issuance of additional parity bonds; (h) terms pertaining to the incurrence of parity debt; (i) the refunding of outstanding bonds; (j) procedures, if any, by which the terms of any contract with bondholders may be amended or abrogated; (k) acts or failures to act which constitute a default by the participant or the authority in their respective obligations and the rights and remedies in the event of a default; (l) the securing of bonds by a pooling of leases whereby the authority may assign its rights, as lessor, and pledge rents under two or more leases with two or more participants, as lessees; (m) terms governing performance by the trustee of its obligation; or (n) such other additional covenants, agreements, and provisions as are deemed necessary, useful, or convenient by the authority for the security of the holders of the bonds.

(5) Bonds may be issued by the authority to refund other outstanding authority bonds, at or prior to the maturity thereof, and to pay any redemption premium with respect thereto. Bonds issued for such refunding purposes may be combined with bonds issued for the financing or refinancing of new projects. Pending the application of the proceeds of the refunding bonds to the redemption of the bonds to be redeemed, the authority may enter into an agreement or agreements with a corporate trustee under RCW 28B.07.080 with respect to the interim investment of the proceeds and the application of the proceeds and the earnings on the proceeds to the payment of the principal of and interest on, and the redemption of the bonds to be redeemed.

(6) All bonds and any interest coupons appertaining to the bonds shall be negotiable instruments under Title 62A RCW.

(7) Neither the members of the authority, nor its employees or agents, nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance of the bonds.

(8) The authority may purchase its bonds with any of its funds available for the purchase. The authority may hold, pledge, cancel, or resell the bonds subject to and in accordance with agreements with bondholders.

(9) At no time shall the total outstanding bonded indebtedness of the authority exceed five hundred million dollars. [1983 c 169 § 5.]

28B.07.060 Bonds—Special obligations—Payment—Funds—Segregation of proceeds and moneys. Bonds issued under this chapter shall not be deemed to constitute obligations, either general or special, of the state or of any political subdivision of the state, or a pledge of the faith and credit of the state or of any political subdivision, or a

general obligation of the authority. The bonds shall be special obligations of the authority and shall be payable solely from the special fund or funds created by the authority in the bond resolution or trust indenture pursuant to which the bonds were issued. The fund or funds shall be funded in whole or in part from moneys paid by one or more participants for whose benefit the bonds were issued, from the sources, if any, under RCW 28B.07.040(9), or from the proceeds of bonds issued by the authority for the purpose of refunding any outstanding bonds of the authority. The issuance of bonds under this chapter shall not obligate, directly, indirectly, or contingently, the state or any political subdivision of the state to levy any taxes or appropriate or expend any funds for the payment of the principal or the interest on the bonds.

Neither the proceeds of bonds issued under this chapter, any moneys used or to be used to pay the principal of or interest on the bonds, nor any moneys received by the authority to defray its administrative costs shall constitute public money or property. All of such moneys shall be kept segregated and set apart from funds of the state and any political subdivision of the state and shall not be subject to appropriation or allotment by the state or subject to the provisions of chapter 43.88 RCW. [1983 c 169 § 6.]

28B.07.070 Agreements with participant—Participant's payment of certain costs and expenses. In connection with any bonds issued by the authority, the authority shall enter into agreements with participants which shall provide for the payment by each participant of amounts which shall be sufficient, together with other revenues available to the authority, if any, to: (1) Pay the participant's share of the administrative costs and expenses of the authority; (2) pay the costs of maintaining, managing, and operating the project or projects financed by the authority, to the extent that the payment of the costs has not otherwise been adequately provided for; (3) pay the principal of, premium, if any, and interest on outstanding bonds of the authority issued in respect of such project or projects as the same shall become due and payable; and (4) create and maintain reserves required or provided for in any bond resolution or trust indenture authorizing the issuance of such bonds of the authority. The payments shall not be subject to supervision or regulation by any department, committee, board, body, bureau, or agency of the state other than the authority. [1983 c 169 § 7.]

28B.07.080 Moneys deemed trust funds—Agreement or trust indenture with bank or trust company authorized. All moneys received by or on behalf of the authority under this chapter, whether as proceeds from the sale of bonds or from participants or from other sources shall be deemed to be trust funds to be held and applied solely as provided in this chapter. The authority, in lieu of receiving and applying the moneys itself, may enter into an agreement or trust indenture with one or more banks or trust companies having the power and authority to conduct trust business in the state to:

(1) Perform all of any part of the obligations of the authority with respect to: (a) Bonds issued by it; (b) the receipt, investment, and application of the proceeds of the

bonds and moneys paid by a participant or available from other sources for the payment of the bonds; (c) the enforcement of the obligations of a participant in connection with the financing or refinancing of any project; and (d) other matters relating to the exercise of the authority's powers under this chapter;

(2) Receive, hold, preserve, and enforce any security interest or evidence of security interest granted by a participant for purposes of securing the payment of the bonds; and

(3) Act on behalf of the authority or the holders or owners of bonds of the authority for purposes of assuring or enforcing the payment of the bonds, when due. [1983 c 169 § 8.]

28B.07.090 Holders or owners of bonds—Trustees—Enforcement of rights—Purchase at foreclosure sale. Any holder or owner of bonds of the authority issued under this chapter or any holder of the coupons appertaining to the bonds, and the trustee or trustees under any trust indenture, except to the extent the rights given are restricted by the authority in any bond resolution or trust indenture authorizing the bonds, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any of their respective rights, and may become the purchaser at any foreclosure sale if the person is the highest bidder. [1983 c 169 § 9.]

28B.07.100 Bonds are securities—Legal investments. The bonds of the authority are securities in which all public officers and bodies of this state and all counties, cities, municipal corporations, and political subdivisions, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, insurance companies and associations, and all executors, administrators, guardians, trustees, and other fiduciaries may legally invest any sinking funds, moneys, or other funds belonging to them or within their control. [1983 c 169 § 10.]

28B.07.110 Projects or financing—Exemption from certain restrictions on procedures for awarding contracts. A project or the financing or refinancing thereof pursuant to this chapter shall not be subject to the requirements of any law or rule relating to competitive bidding, lease performance bonds, or other restrictions imposed on the procedure for award of contracts. [1983 c 169 § 11.]

28B.07.120 Bond counsel—Selection. (1) The authority shall adopt written policies to provide for the selection of bond counsel. The policies shall provide for the creation and maintenance of a roster of attorneys whom the authority believes possess the requisite special expertise and professional standing to provide bond counsel opinions which would be accepted by the underwriters, bondholders and other members of the financial community, and which would be in furtherance of the public interest in obtaining the lowest possible interest rates on the bonds issued by the authority. Any attorney may apply to have his or her name placed on the roster, but may not be placed on the roster unless the attorney demonstrates to the authority's satisfac-

tion that the attorney would issue the kind of opinions required by this section.

(2) Prior to selecting an attorney or attorneys to provide bond counsel services, the authority shall provide all attorneys on the roster with a notice of its intentions to select bond counsel and shall invite each of them to submit to the authority his or her fee schedule for providing bond counsel services. The authority shall have wide discretion in selecting the attorney or attorneys it considers to be most appropriate to provide the services, but in the exercise of this discretion the authority shall consider all submitted fee schedules and the public interest in achieving issuance of bonds on terms most favorable to the authority. At least once every two calendar years, the authority shall select anew an attorney or attorneys to serve as bond counsel. However, the authority may retain an attorney for longer than two years when necessary to complete work on a particular bond issue. An attorney previously retained may be selected again but only after the authority has provided other attorneys on the roster with an opportunity to be selected and has made the fee schedule review required under this subsection. As an alternative to retaining counsel for a period of time, the authority may appoint an attorney to serve as counsel in respect to only a particular bond issue or issues. [1983 c 169 § 13.]

28B.07.130 Underwriters—Selection. (1) The authority shall adopt written policies to provide for the selection of underwriters. The policies shall provide for the creation of a roster of underwriters who the authority believes possess the requisite special expertise and professional standing to provide bond marketing services which would be accepted by bondholders and other members of the financial community, and which would be in furtherance of the public interest in marketing the authority's bonds at the lowest possible costs. Any underwriter may apply to have its name placed on the roster, but may not be placed on the roster unless it demonstrates to the authority's satisfaction that it meets the requirements of this section.

(2) Whenever the authority decides that it needs the services of an underwriter, it shall provide all underwriters on the roster with a notice of its intentions and shall invite each of them to submit to the authority an itemization of its fees and other charges for providing underwriting services on the issue. The itemization shall be by categories designed by the authority. The authority shall have wide discretion in selecting the underwriter it considers to be most appropriate to provide the services, but in the exercise of this discretion the authority shall consider the underwriter's fees and other charges and the public interest in achieving issuance of bonds on terms most favorable to the authority. The authority may adopt rules setting forth conditions under which an institution of higher education may be permitted to exercise the notice and selection procedures set forth in this subsection. These rules shall require the institution to comply with the provisions of this subsection as if it were the authority and to obtain the authority's prior approval of the selection of an underwriter. [1983 c 169 § 14.]

28B.07.900 Chapter supplemental—Application of other laws. This chapter provides a complete, additional,

and alternative method for accomplishing the purposes of this chapter and shall be regarded as supplemental and additional to powers conferred by other laws. The issuance of bonds and refunding bonds under this chapter need not comply with the requirements of any other law applicable to the issuance of bonds. [1983 c 169 § 15.]

28B.07.910 Construction—1983 c 169. This chapter, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect its purposes. Insofar as the provisions of this chapter are inconsistent with the provisions of any general or special law, or parts thereof, the provisions of this chapter shall be controlling. [1983 c 169 § 16.]

28B.07.920 Severability—1983 c 169. 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. [1983 c 169 § 17.]

Chapter 28B.10

COLLEGES AND UNIVERSITIES GENERALLY

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28B.10.016 Definitions. For the purposes of this title:

- (1) "State universities" means the University of Washington and Washington State University.
- (2) "Regional universities" means Western Washington University at Bellingham, Central Washington University at Ellensburg, and Eastern Washington University at Cheney.
- (3) "State college" means The Evergreen State College in Thurston county.
- (4) "Institutions of higher education" or "postsecondary institutions" means the state universities, the regional universities, The Evergreen State College, the community colleges, and the technical colleges.

(5) "Governing board" means the board of regents or the board of trustees of the institutions of higher education. [1992 c 231 § 1; 1991 c 238 § 113; 1977 ex.s. c 169 § 1.]

Effective date—1992 c 231: "This act shall take effect July 1, 1992." [1992 c 231 § 35.]

Effective dates—Severability—1991 c 238: See RCW 28B.50.917 and 28B.50.918.

Tenure or terms, rights, including property rights, not affected—1977 ex.s. c 169: "Nothing in this 1977 amendatory act shall affect the tenure of or the terms of any officials, administrative assistants, faculty members, or other employees of any institution of higher education within this state, whether such institutions have hereinabove in this 1977 amendatory act been redesignated as regional universities or otherwise. Nothing in this 1977 amendatory act shall affect any rights, whether to property or otherwise, existing on or after the effective date of this 1977 amendatory act, the intent of the legislature being solely to redesignate as regional universities certain institutions of higher education within this state." [1977 ex.s. c 169 § 113.]

Statute and RCW designations affected—1977 ex.s. c 169: "It is the intent of the legislature that after the effective date of this 1977 amendatory act, where the names "Western Washington State College", "Central Washington State College", or "Eastern Washington State College" are used in any bill enacted by the legislature or found within the Revised Code of Washington, they shall mean "Western Washington University", "Central Washington University", and "Eastern Washington University", respectively." [1977 ex.s. c 169 § 114.]

Severability—1977 ex.s. c 169: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 169 § 116.]

28B.10.017 "Eligible student" defined. "Eligible student" means a student who (1) was enrolled in a Washington college, university, community college, or vocational-technical institute on or after August 2, 1990, and (2) is unable to complete the period of enrollment or academic term in which the student was enrolled because the student was deployed either in the Persian Gulf combat zone, as designated by the president of the United States by executive order, or in another location in support of the Persian Gulf combat zone. An eligible student is required to verify his or her inability to complete an academic term through military service records, movement orders, or a certified letter signed by the student's installation personnel officer. [1991 c 164 § 1.]

28B.10.020 Acquisition of property by universities and The Evergreen State College. The boards of regents of the University of Washington and Washington State University, respectively, and the boards of trustees of Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College, respectively, shall have the power and authority to acquire by exchange, gift, purchase, lease, or condemnation in the manner provided by chapter 8.04 RCW for condemnation of property for public use, such lands, real estate and other property, and interests therein as they may deem necessary for the use of said institutions respectively. However, the purchase or lease of major off-campus facilities is subject to the approval of the higher education coordinating board under RCW 28B.80.340. [1985 c 370 § 50; 1977 ex.s. c 169 § 7; 1969 ex.s. c 223 § 28B.10.020. Prior: 1967 c 47 § 16; 1947 c 104 § 1; Rem. Supp. 1947 § 4623-20. Formerly RCW 28.76.020.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.10.022 Authority to enter into financing contracts—Notice. The boards of regents of the state universities and the boards of trustees of the regional universities, The Evergreen State College, and the *state board for community college education, are severally authorized to enter into financing contracts as provided in chapter 39.94 RCW. Except as provided in this section, financing contracts shall be subject to the approval of the state finance committee. The board of regents of a state university may enter into financing contracts which are payable solely from and secured by all or any component of the fees and revenues of the university derived from its ownership and operation of its facilities not subject to appropriation by the legislature and not constituting "general state revenues," as defined in Article VIII, section 1 of the state Constitution, without the prior approval of the state finance committee. The board of regents shall notify the state finance committee at least sixty days prior to entering into such contract and provide information relating to such contract as requested by the state finance committee. [1989 c 356 § 6.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

28B.10.023 Contracts subject to requirements established under office of minority and women's business enterprises. All contracts entered into under this chapter by institutions of higher education on or after September 1, 1983, are subject to the requirements established under chapter 39.19 RCW. [1983 c 120 § 10.]

Effective date—Applicability—Severability—Conflict with federal requirements—1983 c 120: See RCW 39.19.910, 39.19.920.

28B.10.025 Purchases of works of art—Procedure. The Washington state arts commission shall, in consultation with the boards of regents of the University of Washington and Washington State University and with the boards of trustees of the regional universities, The Evergreen State College, and the community college districts, determine the amount to be made available for the purchases of art under RCW 28B.10.027, and payment therefor shall be made in accordance with law. The designation of projects and sites, the selection, contracting, purchase, commissioning, reviewing of design, execution and placement, acceptance, maintenance, and sale, exchange, or disposition of works of art shall be the responsibility of the Washington state arts commission in consultation with the board of regents or trustees. However, the costs to carry out the Washington state arts commission's responsibility for maintenance shall not be funded from the moneys referred to under this section, RCW 43.17.200, 43.19.455, or 28A.335.210, but shall be contingent upon adequate appropriations being made for that purpose. [1990 c 33 § 557; 1983 c 204 § 8; 1977 ex.s. c 169 § 8; 1974 ex.s. c 176 § 4.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Severability—1983 c 204: See note following RCW 43.46.090.

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Acquisition of works of art for public buildings and lands—Visual arts program established: RCW 43.46.090.

Allocation of moneys for acquisition of works of art—Expenditure by arts commission—Conditions: RCW 43.17.200.

Purchase of works of art—Interagency reimbursement for expenditure by visual arts program: RCW 43.17.205.

State art collection: RCW 43.46.095.

28B.10.027 Allocation of moneys for acquisition of works of art—Expenditure by arts commission—Conditions. All universities and colleges shall allocate as a nondeductible item, out of any moneys appropriated for the original construction or any major renovation or remodel work exceeding two hundred thousand dollars of any building, an amount of one-half of one percent of the appropriation to be expended by the Washington state arts commission with the approval of the board of regents or trustees for the acquisition of works of art. The works of art may be placed on public lands of institutions of higher education, integral to or attached to a public building or structure of institutions of higher education, detached within or outside a public building or structure of institutions of higher education, part of a portable exhibition or collection, part of a temporary exhibition, or loaned or exhibited in other public facilities.

In addition to the cost of the works of art the one-half of one percent of the appropriation shall be used to provide for the administration of the visual arts program by the Washington state arts commission and all costs for installation of the work of art. For the purpose of this section building shall not include sheds, warehouses, and other buildings of a temporary nature. [1983 c 204 § 9.]

Severability—1983 c 204: See note following RCW 43.46.090.

28B.10.030 Display of United States flag. Every board of trustees or board of regents shall cause a United States flag being in good condition to be displayed on the campus of their respective state institution of higher education during the hours of nine o'clock a.m. and four o'clock p.m. on school days, except during inclement weather. [1969 ex.s. c 223 § 28B.10.030. Prior: 1939 c 17 § 1; RRS § 4531-1. Formerly RCW 28.76.030.]

28B.10.032 Public and private institutions offering teacher preparation programs—Exploration of methods to enhance awareness of teacher preparation programs. The state's public and private institutions of higher education offering teacher preparation programs and school districts are encouraged to explore ways to facilitate faculty exchanges, and other cooperative arrangements, to generate increased awareness and understanding by higher education faculty of the common school teaching experience and increased awareness and understanding by common school faculty of the teacher preparation programs. [1987 c 525 § 233.]

Intent—Short title—1987 c 525 §§ 202-233: See notes following RCW 28A.410.020.

Severability—1987 c 525: See note following RCW 28A.630.100.

28B.10.040 Higher educational institutions to be nonsectarian. All institutions of higher education supported wholly or in part by state funds, and by whatsoever name so designated, shall be forever free from religious or sectarian control or influence. [1969 ex.s. c 223 § 28B.10.040. Prior: (i) 1909 c 97 p 242 § 7; RRS § 4559; prior: 1897 c 118 § 188; 1890 p 396 § 5. Formerly RCW 28.77.013; 28.76.040, part. (ii) 1909 c 97 p 243 § 1, part; RRS § 4568, part; prior: 1897 c 118 § 190, part; 1891 c 145 § 1, part. Formerly RCW 28.80.015, part; 28.76.040, part.]

Nonsectarian: State Constitution Art. 9 § 4, Art. 26.

28B.10.050 Entrance requirements exceeding minimum requirements. Except as the legislature shall otherwise specifically direct, the boards of regents and the boards of trustees for the state universities, the regional universities, and The Evergreen State College may establish entrance requirements for their respective institutions of higher education which meet or exceed the minimum entrance requirements established under RCW 28B.80.350(2). [1985 c 370 § 91; 1984 c 278 § 19; 1977 ex.s. c 169 § 9; 1969 ex.s. c 223 § 28B.10.050. Prior: 1917 c 10 § 9; RRS § 4540. Formerly RCW 28.76.050.]

Reviser's note: In 1985 c 370, the legislature amended language that, pursuant to 1984 c 278, was not to take effect until July 1, 1986. The 1985 c 370 amendment to RCW 28B.10.050 takes effect January 1, 1986.

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability—1984 c 278: See note following RCW 28A.185.010.

Effective date—1984 c 278: See note following RCW 28A.230.130.

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.10.055 Credits—State-wide transfer policy and agreement—Establishment. See RCW 28B.80.280 and 28B.80.290.

28B.10.060 Spokane intercollegiate research and technology institute. (1) The Spokane intercollegiate research and technology institute is hereby created.

(2) The institute shall be operated and administered as a multi-institutional education and research center, housing appropriate programs conducted in Spokane under the authority of Washington State University, Eastern Washington University, and the community colleges of Spokane. Gonzaga University and Whitworth College may participate as full partners in any academic and research activities of the institute.

(3) The institute shall house education and research programs specifically designed to meet the needs of the greater Spokane area.

(4) The coordination of programs and activities at the institute shall be subject to the authority of the joint center for higher education under RCW 28B.25.020. The institute shall be administered by the joint center.

(5) The establishment of any education or research programs at the institute and the lease, purchase, or construction of any site or facility for the institute shall be subject to the approval of the higher education coordinating board pursuant to RCW 28B.80.340.

(6) All cabinets, furniture, office equipment, other tangible property acquired by Washington State University for the institute, all funds, credits, or other assets held by Washington State University for the institute shall be assigned to the joint center for higher education. [1991 c 205 § 1; 1989 1st ex.s. c 7 § 10.]

Effective date—1991 c 205: See RCW 28B.25.900.

Legislative findings—1989 1st ex.s. c 7: See RCW 28B.45.010.

28B.10.100 "Major line" defined. The term "major line," whenever used in this code, shall be held and construed to mean the development of the work or courses of study in certain subjects to their fullest extent, leading to a degree or degrees in that subject. [1969 ex.s. c 223 § 28B.10.100. Prior: 1917 c 10 § 1; RRS § 4532. Formerly RCW 28.76.010.]

28B.10.105 Courses exclusive to the University of Washington. See RCW 28B.20.060.

28B.10.106 Courses exclusive to Washington State University. See RCW 28B.30.060 and 28B.30.065.

28B.10.115 Major lines common to University of Washington and Washington State University. The courses of instruction of both the University of Washington and Washington State University shall embrace as major lines, pharmacy, architecture, civil engineering, electrical engineering, mechanical engineering, chemical engineering, and forest management as distinguished from forest products and logging engineering which are exclusive to the University of Washington. These major lines shall be offered and taught at said institutions only. [1985 c 218 § 1; 1969 ex.s. c 223 § 28B.10.115. Prior: 1963 c 23 § 2; 1961 c 71 § 2; prior: (i) 1917 c 10 § 8; RRS § 4539. (ii) 1917 c 10 § 4; RRS § 4535. Formerly RCW 28.76.080.]

28B.10.120 Graduate work. Whenever a course is authorized to be offered and taught by this code, in any of the institutions herein mentioned, as a major line, it shall carry with it the right to offer, and teach graduate work in such major lines. [1969 ex.s. c 223 § 28B.10.120. Prior: 1917 c 10 § 7; RRS § 4538. Formerly RCW 28.76.100.]

28B.10.140 Teachers', principals' and superintendents' training courses. The University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College are each authorized to train teachers and other personnel for whom teaching certificates or special credentials prescribed by the state board of education are required, for any grade, level, department or position of the public schools of the state, except that the training for superintendents, over and above that required for teaching certificates and principals' credentials, shall be given by the University of Washington and Washington State University only. [1977 ex.s. c 169 § 10; 1969 ex.s. c 223 § 28B.10.140. Prior: 1967 c 47 § 17; 1949 c 34 § 1; Rem. Supp. 1949 § 4618-3. Formerly RCW 28.76.120.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.10.170 College and university fees. See chapter 28B.15 RCW.

28B.10.210 Blind students, assistance to—"Blind student" defined. A blind student is defined for the purpose of RCW 28B.10.210 through 28B.10.220 to be a person who (a) is unable to read because of defective eyesight and (b) is qualified for admission to an institution of higher education within the state by reason of studies previously pursued. Such blind student must have been a resident of the state of Washington for one year next preceding the date upon which he received any benefits under RCW 28B.10.210 through 28B.10.220, and must make a reasonable showing that he does not have resources with which to finance his education. Inability to read because of defective eyesight may be established for the purposes hereof by a letter from a practicing physician specializing in treatment of the eye. [1969 ex.s. c 223 § 28B.10.210. Prior: 1949 c 232 § 1; 1935 c 154 § 1; Rem. Supp. 1949 § 4542-1. Formerly RCW 28.76.129; 28.76.010, part.]

28B.10.215 Blind students, assistance to—Allocation of funds. There is allocated to each and every blind student attending any institution of higher education within the state a sum not to exceed two hundred dollars per quarter, or so much thereof as may be necessary in the opinion of the higher education coordinating board in the state of Washington, to provide said blind student with readers, books, recordings, recorders, or other means of reproducing and imparting ideas, while attending said institution of higher education: PROVIDED, That said allocation shall be made out of any moneys in the general fund not otherwise appropriated. [1985 c 370 § 51; 1982 1st ex.s. c 37 § 6; 1974 ex.s. c 68 § 1; 1969 ex.s. c 223 § 28B.10.215. Prior: 1955 c 175 § 1; 1949 c 232 § 2; 1935 c 154 § 2; Rem. Supp. 1949 § 4542-2. Formerly RCW 28.76.130.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

28B.10.220 Blind students, assistance to—Administration of funds. All blind student assistance shall be distributed under the supervision of the higher education coordinating board in the state of Washington. The moneys or any part thereof allocated in the manner referred to in RCW 28B.10.215 shall, for furnishing said books or equipment or supplying said services, be paid by said board directly to the state institution of higher education, directly to such blind student, heretofore mentioned, or to the student's parents, guardian, or some adult person, if the blind student is a minor, designated by said blind student to act as trustee of said funds, as shall be determined by the board.

The board shall have power to prescribe and enforce all rules and regulations necessary to carry out the provisions of this section and RCW 28B.10.215. [1985 c 370 § 52; 1982 1st ex.s. c 37 § 7; 1974 ex.s. c 68 § 2; 1969 ex.s. c 223 § 28B.10.220. Prior: 1963 c 33 § 1; 1955 c 175 § 2; prior:

(i) 1949 c 232 § 3; 1935 c 154 § 3; Rem. Supp. 1949 § 4542-3. (ii) 1935 c 154 § 4; RRS § 4542-4. Formerly RCW 28.76.140.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

28B.10.265 Waiver from fees—Children of certain citizens missing in action or prisoners of war. Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges may waive all or a portion of the tuition, operating, and services and activities fees for children of any person who was a Washington domiciliary and who within the past eleven years has been determined by the federal government to be a prisoner of war or missing in action in Southeast Asia, including Korea, or who shall become so hereafter, if the children meet such other educational qualifications as such institution of higher education shall deem reasonable and necessary under the circumstances. Applicants for free or reduced tuition shall provide institutional administrative personnel with documentation of their rights under this section.

Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act. [1992 c 231 § 2; 1985 c 390 § 1; 1973 c 63 § 2; 1972 ex.s. c 17 § 2.]

Effective date—1992 c 231: See note following RCW 28B.10.016.

Effective date—1973 c 63: "This 1973 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately [March 8, 1973]: PROVIDED, That qualified applicants under sections 1 and 2 of this 1973 amendatory act shall be admitted to such institutions free of tuition and such fees commencing not later than the next succeeding quarter, semester or like educational period beginning after the effective date of this 1973 amendatory act." [1973 c 63 § 3.]

Effective date—1972 ex.s. c 17: "This 1972 act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately [February 19, 1972]: PROVIDED, That qualified applicants under sections 1 and 2 of this 1972 act shall be admitted to such institutions tuition-free commencing not later than the next succeeding quarter, semester or like educational period beginning after the effective date of this 1972 act." [1972 ex.s. c 17 § 3.]

28B.10.280 Student loans—Federal student aid programs. The boards of regents of the state universities and the boards of trustees of regional universities, The Evergreen State College, and community college districts may each create student loan funds, and qualify and participate in the National Defense Education Act of 1958 and such other similar federal student aid programs as are or may be enacted from time to time, and to that end may comply with all of the laws of the United States, and all of the rules, regulations and requirements promulgated thereto. [1977 ex.s. c 169 § 11; 1970 ex.s. c 15 § 27; 1969 ex.s. c 222 § 2; 1969 ex.s. c 223 § 28B.10.280. Prior: 1959 c 191 § 1. Formerly RCW 28.76.420.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Severability—1970 ex.s. c 15: See note following RCW 28A.230.160.

Legislative declaration—Severability—1969 ex.s. c 222: See notes following RCW 28B.10.800.

State educational grant account—Established—Deposits—Use: RCW 28B.10.821.

28B.10.281 Student loans—Certain activities may make student ineligible for aid. Any student who organizes and/or participates in any demonstration, riot or other activity of which the effect is to interfere with or disrupt the normal educational process at such institution shall not be eligible for such aid. [1969 ex.s. c 222 § 3. Formerly RCW 28.76.421.]

Legislative declaration—Severability—1969 ex.s. c 222: See notes following RCW 28B.10.800.

28B.10.284 Uniform minor student capacity to borrow act. See chapter 26.30 RCW.

28B.10.290 Use of state bank credit cards. Any state university, regional university, The Evergreen State College, or community college may honor credit cards issued by any bank within the state of Washington for tuition, fees, or any materials or supplies required for course study. [1977 ex.s. c 169 § 12; 1969 ex.s. c 269 § 10. Formerly RCW 28.76.560.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.10.293 Additional charges authorized in collection of debts—Public and private institutions of higher education. Each state public or private institution of higher education may, in the control and collection of any debt or claim due owing to it, impose reasonable financing and late charges, as well as reasonable costs and expenses incurred in the collection of such debts, if provided for in the note or agreement signed by the debtor. [1977 ex.s. c 18 § 1.]

28B.10.295 Educational materials on abuses of, and illnesses consequent from, alcohol. The boards of regents of the state's universities, the boards of trustees of the respective state colleges, and the boards of trustees of the respective community colleges, with the cooperation of the *state board for community college education, shall make available at some place of prominence within the premises of each campus educational materials on the abuses of alcohol in particular and the illnesses consequent therefrom in general: PROVIDED, That such materials shall be obtained from public or private organizations at no cost to the state. [1975 1st ex.s. c 164 § 2.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Legislative recognition of community alcohol centers: "The legislature recognizes the invaluable services performed by the community alcohol centers throughout the state, which centers would view making available such educational materials as referred to in section 2 of this act as a part of their community outreach education and preventive program and for which material no fees would be charged." [1975 1st ex.s. c 164 § 1.] "Section 2 of this act" [1975 1st ex.s. c 164] is the enactment of RCW 28B.10.295.

28B.10.300 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and The Evergreen State College—Authorized. The boards of regents of the state universities and the boards of trustees of the regional universities and The Evergreen State College are severally authorized to:

(1) Enter into contracts with persons, firms or corporations for the construction, installation, equipping, repairing, renovating and betterment of buildings and facilities for the following:

- (a) dormitories
- (b) hospitals
- (c) infirmaries
- (d) dining halls
- (e) student activities

(f) services of every kind for students, including, but not limited to, housing, employment, registration, financial aid, counseling, testing and offices of the dean of students

(g) vehicular parking

(h) student, faculty and employee housing and boarding;

(2) Purchase or lease lands and other appurtenances necessary for the construction and installation of such buildings and facilities and to purchase or lease lands with buildings and facilities constructed or installed thereon suitable for the purposes aforesaid;

(3) Lease to any persons, firms, or corporations such portions of the campus of their respective institutions as may be necessary for the construction and installation of buildings and facilities for the purposes aforesaid and the reasonable use thereof;

(4) Borrow money to pay the cost of the acquisition of such lands and of the construction, installation, equipping, repairing, renovating, and betterment of such buildings and facilities, including interest during construction and other incidental costs, and to issue revenue bonds or other evidence of indebtedness therefor, and to refinance the same before or at maturity and to provide for the amortization of such indebtedness from services and activities fees or from the rentals, fees, charges, and other income derived through the ownership, operation and use of such lands, buildings, and facilities and any other dormitory, hospital, infirmary, dining, student activities, student services, vehicular parking, housing or boarding building or facility at the institution;

(5) Contract to pay as rental or otherwise the cost of the acquisition of such lands and of the construction and installation of such buildings and facilities on the amortization plan; the contract not to run over forty years;

(6) Expend on the amortization plan services and activities fees and/or any part of all of the fees, charges, rentals, and other income derived from any or all revenue-producing lands, buildings, and facilities of their respective institutions, heretofore or hereafter acquired, constructed or installed, including but not limited to income from rooms, dormitories, dining rooms, hospitals, infirmaries, housing or student activity buildings, vehicular parking facilities, land or the appurtenances thereon, and to pledge such services and activities fees and/or the net income derived through the ownership, operation and use of any lands, buildings or facilities of the nature described in subsection (1) hereof for the payment of part or all of the rental, acquisition, construction, and installation, and the betterment, repair, and renovation or other contract charges, bonds or other evidence of

indebtedness agreed to be paid on account of the acquisition, construction, installation or rental of, or the betterment, repair or renovation of, lands, buildings, facilities and equipment of the nature authorized by this section. [1977 ex.s. c 169 § 13; 1973 1st ex.s. c 130 § 1; 1969 ex.s. c 223 § 28B.10.300. Prior: 1967 ex.s. c 107 § 1; 1963 c 167 § 1; 1961 c 229 § 2; prior: (i) 1950 ex.s. c 17 § 1, part; 1947 c 64 § 1, part; 1933 ex.s. c 23 § 1, part; 1925 ex.s. c 91 § 1, part; Rem. Supp. 1947 § 4543-1, part. (ii) 1947 c 64 § 2, part; 1933 ex.s. c 23 § 2, part; 1925 ex.s. c 91 § 2, part; Rem. Supp. 1947 § 4543-2, part. Formerly RCW 28.76.180.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Prior bonds validated: See 1961 c 229 § 10.

28B.10.305 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and The Evergreen State College—Use of lands, buildings, and facilities. The lands, buildings, facilities, and equipment acquired, constructed or installed for those purposes shall be used in the respective institutions primarily for:

- (1) dormitories
 - (2) hospitals
 - (3) infirmaries
 - (4) dining halls
 - (5) student activities
 - (6) services of every kind for students, including, but not limited to housing, employment, registration, financial aid, counseling, testing and offices of the dean of students
 - (7) vehicular parking
 - (8) student, faculty and employee housing and boarding.
- [1969 ex.s. c 223 § 28B.10.305. Prior: 1967 ex.s. c 107 § 2; 1963 c 167 § 2; 1961 c 229 § 3; prior: 1950 ex.s. c 17 § 1, part; 1947 c 64 § 1, part; 1933 ex.s. c 23 § 1, part; 1925 ex.s. c 91 § 1, part; Rem. Supp. 1947 § 4543-1, part. Formerly RCW 28.76.190.]

28B.10.310 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and The Evergreen State College—Bonds—Sale, interest, form, payment, term, execution, negotiability, etc. Each issue or series of such bonds: Shall be sold at such price and at such rate or rates of interest; may be serial or term bonds; may mature at such time or times in not to exceed forty years from date of issue; may be sold at public or private sale; may be payable both principal and interest at such place or places; may be subject to redemption prior to any fixed maturities; may be in such denominations; may be payable to bearer or to the purchaser or purchasers thereof or may be registrable as to principal or principal and interest as provided in RCW 39.46.030; may be issued under and subject to such terms, conditions and covenants providing for the payment of the principal thereof and interest thereon, which may include the creation and maintenance of a reserve fund or account to secure the payment of such principal and interest and a provision that additional bonds payable out of the same source or sources may later be issued on a parity therewith, and such other terms, conditions, covenants and protective provisions safeguarding such payment, all as

determined and found necessary and desirable by said boards of regents or trustees. If found reasonably necessary and advisable, such boards of regents or trustees may select a trustee for the owners of each such issue or series of bonds and/or for the safeguarding and disbursements of the proceeds of their sale for the uses and purposes for which they were issued and, if such trustee or trustees are so selected, shall fix its or their rights, duties, powers, and obligations. The bonds of each such issue or series: Shall be executed on behalf of such universities or colleges by the president of the board of regents or the chairman of the board of trustees, and shall be attested by the secretary or the treasurer of such board, one of which signatures may be a facsimile signature; and shall have the seal of such university or college impressed, printed, or lithographed thereon, and any interest coupons attached thereto shall be executed with the facsimile signatures of said officials. The bonds of each such issue or series and any of the coupons attached thereto shall be negotiable instruments within the provisions and intent of the negotiable instruments law of this state even though they shall be payable solely from any special fund or funds. [1983 c 167 § 31; 1972 ex.s. c 25 § 1; 1970 ex.s. c 56 § 22; 1969 ex.s. c 232 § 96; 1969 ex.s. c 223 § 28B.10.310. Prior: 1961 c 229 § 7. Formerly RCW 28.76.192.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

Purpose—1970 ex.s. c 56: See note following RCW 39.52.020.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.52.020.

28B.10.315 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and The Evergreen State College—Funding, refunding bonds. Such boards of regents or trustees may from time to time provide for the issuance of funding or refunding revenue bonds to fund or refund at or prior to maturity any or all bonds of other indebtedness, including any premiums or penalties required to be paid to effect such funding or refunding, heretofore or hereafter issued or incurred to pay all or part of the cost of acquiring, constructing, or installing any lands, buildings, or facilities of the nature described in RCW 28B.10.300.

Such funding or refunding bonds and any coupons attached thereto shall be negotiable instruments within the provisions and intent of the negotiable instruments law of this state.

Such funding or refunding bonds may be exchanged for or applied to the payment of the bonds or other indebtedness being funded or refunded or may be sold in such manner and at such price, and at such rate or rates of interest as the boards of regents or trustees deem advisable, either at public or private sale.

The provisions of this chapter relating to the maturities, terms, conditions, covenants, interest rate, issuance, and sale of revenue bonds shall be applicable to such funding or refunding bonds except as may be otherwise specifically provided in this section. [1983 c 167 § 32; 1970 ex.s. c 56 § 23; 1969 ex.s. c 232 § 97; 1969 ex.s. c 223 § 28B.10.315. Prior: 1961 c 229 § 8. Formerly RCW 28.76.194.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

Purpose—1970 ex.s. c 56: See note following RCW 39.52.020.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.52.020.

28B.10.320 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and The Evergreen State College—Authority to be liberally construed—Future acquisitions and installations may be pledged for payment. The authority granted in RCW 28B.10.300 through 28B.10.330 and 28B.15.220 shall be liberally construed and shall apply to all lands, buildings, and facilities of the nature described in RCW 28B.10.300 heretofore or hereafter acquired, constructed, or installed and to any rentals, contract obligations, bonds or other indebtedness heretofore or hereafter issued or incurred to pay part or all of the cost thereof, and shall include authority to pledge for the amortization plan the net income from any and all existing and future lands, buildings and facilities of the nature described in RCW 28B.10.300 whether or not the same were originally financed hereunder or under predecessor statutes. [1969 ex.s. c 223 § 28B.10.320. Prior: 1961 c 229 § 9. Formerly RCW 28.76.196.]

28B.10.325 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and The Evergreen State College—Rate of interest on obligations. The rate or rates of interest on the principal of any obligation made or incurred under the authority granted in RCW 28B.10.300 shall be as authorized by the board of regents or trustees. [1970 ex.s. c 56 § 24; 1969 ex.s. c 232 § 98; 1969 ex.s. c 223 § 28B.10.325. Prior: 1961 c 229 § 4; prior: 1950 ex.s. c 17 § 1, part; 1947 c 64 § 1, part; 1933 ex.s. c 23 § 1, part; 1925 ex.s. c 91 § 1, part; Rem. Supp. 1947 § 4353-1, part. Formerly RCW 28.76.200.]

Purpose—1970 ex.s. c 56: See note following RCW 39.52.020.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.52.020.

28B.10.330 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and The Evergreen State College—Nonliability of state. The state shall incur no liability by reason of the exercise of the authority granted in RCW 28B.10.300. [1969 ex.s. c 223 § 28B.10.330. Prior: 1961 c 229 § 5; prior: 1950 ex.s. c 17 § 1, part; 1947 c 64 § 1, part; 1933 ex.s. c 23 § 1, part; 1925 ex.s. c 91 § 1, part; Rem. Supp. 1947 § 4543-1, part. Formerly RCW 28.76.210.]

28B.10.335 Validation of prior bond issues. All terms, conditions, and covenants, including the pledges of student activity fees, student use fees and student building use fees, special student fees or any similar fees charged to all full time students, or to all students, as the case may be, registering at the state's colleges and universities, contained in all bonds heretofore issued to pay all or part of the cost of acquiring, constructing or installing any lands, buildings, or facilities of the nature described in RCW 28B.10.300 are hereby declared to be lawful and binding in all respects. [1973 1st ex.s. c 130 § 3.]

28B.10.350 Construction work, remodeling or demolition, bids when—Exemption—Waiver—Prevailing rate of wage—Universities and The Evergreen State College. (1) When the cost to The Evergreen State College, any regional university, or state university of any building, construction, renovation, remodeling, or demolition other than maintenance or repairs will equal or exceed the sum of twenty-five thousand dollars, complete plans and specifications for such work shall be prepared and such work shall be put out for public bids and the contract shall be awarded to the lowest responsible bidder if in accordance with the bid specifications: PROVIDED, That when the estimated cost of such building, construction, renovation, remodeling, or demolition equals or exceeds the sum of twenty-five thousand dollars, such project shall be deemed a public works and "the prevailing rate of wage," under chapter 39.12 RCW shall be applicable thereto: PROVIDED FURTHER, That when such building, construction, renovation, remodeling, or demolition involves one trade or craft area and the estimated cost exceeds ten thousand dollars, complete plans and specifications for such work shall be prepared and such work shall be put out for public bids, and the contract shall be awarded to the lowest responsible bidder if in accordance with the bid specifications. This subsection shall not apply when a contract is awarded by the small works procedure authorized in RCW 28B.10.355.

(2) The Evergreen State College, any regional university, or state university may require a project to be put to public bid even when it is not required to do so under subsection (1) of this section.

(3) Where the estimated cost to The Evergreen State College, any regional university, or state university of any building, construction, renovation, remodeling, or demolition is less than twenty-five thousand dollars or the contract is awarded by the small works procedure authorized in RCW 28B.10.355, the publication requirements of RCW 39.04.020 and *39.04.090 shall be inapplicable.

(4) In the event of any emergency when the public interest or property of The Evergreen State College, regional university, or state university would suffer material injury or damage by delay, the president of such college or university may declare the existence of such an emergency and reciting the facts constituting the same may waive the requirements of this section with reference to any contract in order to correct the condition causing the emergency: PROVIDED, That an "emergency," for the purposes of this section, means a condition likely to result in immediate physical injury to persons or to property of such college or university in the absence of prompt remedial action or a condition which immediately impairs the institution's ability to perform its educational obligations. [1985 c 152 § 1; 1979 ex.s. c 12 § 1; 1977 ex.s. c 169 § 14; 1971 ex.s. c 258 § 1.]

***Reviser's note:** RCW 39.04.090 was repealed by 1986 c 282 § 5.

Severability—1979 ex.s. c 12: "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 12 § 3.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Severability—1971 ex.s. c 258: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 258 § 3.]

28B.10.355 Public works projects—Small works roster—Rules—Procedures—Revisions. Each board of regents of the state universities and each board of trustees of the regional universities and The Evergreen State College may establish a small works roster. The small works roster authorized by this section may be used for any public works project for which the estimated cost is less than fifty thousand dollars. Each board shall adopt rules to implement this section.

The roster shall be composed of all responsible contractors who have requested to be on the list. Each board shall establish a procedure for securing telephone 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. This procedure shall require either 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 or that the board shall solicit quotations from at least five contractors in a manner that will equitably distribute the opportunity among contractors on the roster. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection and available by telephone inquiry. Each board may adopt a procedure to prequalify contractors for inclusion on the small works roster. No board may be required to make available for public inspection or copying under chapter 42.17 RCW financial information required to be provided by the prequalification procedure.

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 state. Responsible contractors shall be added to the list at any time they submit a written request. [1985 c 152 § 2.]

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.10.400 Annuities and retirement income plans—Authorized. The boards of regents of the state universities, the boards of trustees of the regional universities and of The Evergreen State College, and the *state board for community college education are authorized and empowered:

(1) To assist the faculties and such other employees as any such board may designate in the purchase of old age annuities or retirement income plans under such rules and regulations as any such board may prescribe. County agricultural agents, home demonstration agents, 4-H club agents, and assistant county agricultural agents paid jointly by the Washington State University and the several counties shall be deemed to be full time employees of the Washington State University for the purposes hereof;

(2) To provide, under such rules and regulations as any such board may prescribe for the faculty members or other employees under its supervision, for the retirement of any such faculty member or other employee on account of age or condition of health, retirement on account of age to be not earlier than the sixty-fifth birthday: PROVIDED, That such faculty member or such other employee may elect to retire at the earliest age specified for retirement by federal social security law: PROVIDED FURTHER, That any supplemental payment authorized by subsection (3) of this section and paid as a result of retirement earlier than age sixty-five shall be at an actuarially reduced rate;

(3) To pay to any such retired person or to his designated beneficiary(s), each year after his retirement, a supplemental amount which, when added to the amount of such annuity or retirement income plan, or retirement income benefit pursuant to RCW 28B.10.415, received by him or his designated beneficiary(s) in such year, will not exceed fifty percent of the average annual salary paid to such retired person for his highest two consecutive years of full time service under an annuity or retirement income plan established pursuant to subsection (1) of this section at an institution of higher education: PROVIDED, HOWEVER, That if such retired person prior to his retirement elected a supplemental payment survivors option, any such supplemental payments to such retired person or his designated beneficiary(s) shall be at actuarially reduced rates: PROVIDED FURTHER, That if a faculty member or other employee of an institution of higher education who is a participant in a retirement plan authorized by this section dies, or has died before retirement but after becoming eligible for retirement on account of age, the designated beneficiary(s) shall be entitled to receive the supplemental payment authorized by this subsection (3) of this section to which such designated beneficiary(s) would have been entitled had said deceased faculty member or other employee retired on the date of death after electing a supplemental payment survivors option: PROVIDED FURTHER, That for the purpose of this subsection, the designated beneficiary(s) shall be (a) the surviving spouse of the retiree; or, (b) with the written consent of such spouse, if any, such other person or persons as shall have an insurable interest in the retiree's life and shall have been nominated by written designation duly executed and filed with the retiree's institution of higher education. [1979 ex.s. c 259 § 1; 1977 ex.s. c 169 § 15; 1975 1st ex.s. c 212 § 1; 1973 1st ex.s. c 149 § 1; 1971 ex.s. c 261 § 1; 1969 ex.s. c 223 § 28B.10.400. Prior: 1965 c 54 § 2; 1957 c 256 § 1; 1955 c 123 § 1; 1947 c 223 § 1; 1943 c 262 § 1; 1937 c 223 § 1; Rem. Supp. 1947 § 4543-11. Formerly RCW 28.76.240.]

*Reviser's note: The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Effective date—1979 ex.s. c 259: "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." [1979 ex.s. c 259 § 5.] This act, 1979 ex.s. c 259, took effect June 21, 1979.

Severability—1979 ex.s. 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." [1979 ex.s. c 259 § 4.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Severability—1973 1st ex.s. c 149: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 1st ex.s. c 149 § 9.]

Appropriation—1973 1st ex.s. c 149: "The sum of \$1,611,650 is hereby appropriated from the general fund for the purpose of carrying out this 1973 amendatory act, to be allocated by the governor to the institutions of higher education." [1973 1st ex.s. c 149 § 10.]

Effective date—1973 1st ex.s. c 149: "This 1973 amendatory act shall take effect on July 1, 1974." [1973 1st ex.s. c 149 § 11.]

Severability—1971 ex.s. c 261: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 261 § 7.]

28B.10.401 Assumptions to be applied when establishing supplemental payment under RCW 28B.10.400(3). The boards of regents of the state universities, the boards of trustees of the state colleges, and the *state board for community college education, when establishing the amount of supplemental payment under RCW 28B.10.400(3) as now or hereafter amended, shall apply the following assumptions:

(1) That the faculty member or such other employee at the time of retirement elected a joint and two-thirds survivor option on their annuity or retirement income plan using actual ages, but not exceeding a five-year age difference if married, or an actuarial equivalent option if single, which represents accumulations including all dividends from all matching contributions and any benefit that such faculty member is eligible to receive from any Washington state public retirement plan while employed at an institution of higher education;

(2) That on and after July 1, 1974, matching contributions were allocated equally between a fixed dollar and a variable dollar annuity;

(3) That for each year after age fifty, the maximum amount of contributions pursuant to RCW 28B.10.410 as now or hereafter amended be contributed toward the purchase of such annuity or retirement income plan, otherwise three-fourths of the formula described in RCW 28B.10.415, as now or hereafter amended, shall be applied. [1979 ex.s. c 259 § 3.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Effective date—Severability—1979 ex.s. c 259: See notes following RCW 28B.10.400.

28B.10.405 Annuities and retirement income plans—Contributions by faculty and employees. Members of the faculties and such other employees as are designated by the boards of regents of the state universities, the boards of trustees of the regional universities and of The Evergreen State College, or the *state board for community college education shall be required to contribute not less than five percent of their salaries during each year of full time service after the first two years of such service toward the purchase of such annuity or retirement income plan; such contributions may be in addition to federal social security tax contributions, if any. [1977 ex.s. c 169 § 16; 1973 1st ex.s. c 149 § 2; 1971 ex.s. c 261 § 2; 1969 ex.s. c 223 §

28B.10.405. Prior: 1955 c 123 § 2; 1947 c 223 § 2; Rem. Supp. 1947 § 4543-12. Formerly RCW 28.76.250.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Severability—Appropriation—Effective date—1973 1st ex.s. c 149: See notes following RCW 28B.10.400.

Severability—1971 ex.s. c 261: See note following RCW 28B.10.400.

28B.10.407 Annuities and retirement income plans—Credit for authorized leaves of absence without pay. (1) A faculty member or other employee designated by the boards of regents of the state universities, the boards of trustees of the regional universities and The Evergreen State College, or the *state board for community college education who is granted an authorized leave of absence without pay may apply the period of time while on the leave in the computation of benefits in any annuity and retirement plan authorized under RCW 28B.10.400 through 28B.10.430 only to the extent provided in subsection (2) of this section.

(2) An employee who is eligible under subsection (1) of this section may receive a maximum of two years' credit during the employee's entire working career for periods of authorized leave without pay. Such credit may be obtained only if the employee pays both the employer and employee contributions required under RCW 28B.10.405 and 28B.10.410 while on the authorized leave of absence and if the employee returns to employment with the university or college immediately following the leave of absence for a period of not less than two years. The employee and employer contributions shall be based on the average of the employee's compensation at the time the leave of absence was authorized and the time the employee resumes employment. Any benefit under RCW 28B.10.400(3) shall be based only on the employee's compensation earned from employment with the university or college.

An employee who is inducted into the armed forces of the United States shall be deemed to be on an unpaid, authorized leave of absence. [1987 c 448 § 1.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

28B.10.410 Annuities and retirement income plans—Limitation on institution's contribution. The boards of regents of the state universities, the boards of trustees of the regional universities and of The Evergreen State College, or the *state board for community college education shall pay not more than one-half of the annual premium of any annuity or retirement income plan established under the provisions of RCW 28B.10.400 as now or hereafter amended. Such contribution shall not exceed ten percent of the salary of the faculty member or other employee on whose behalf the contribution is made. This contribution may be in addition to federal social security tax contributions made by the boards, if any. [1977 ex.s. c 169 § 17; 1973 1st ex.s. c 149 § 3; 1971 ex.s. c 261 § 3; 1969 ex.s. c 223 § 28B.10.410. Prior: 1955 c 123 § 3; 1947 c 223 § 3; Rem. Supp. 1947 § 4543-13. Formerly RCW 28.76.260.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Severability—Appropriation—Effective date—1973 1st ex.s. c 149: See notes following RCW 28B.10.400.

Severability—1971 ex.s. c 261: See note following RCW 28B.10.400.

28B.10.415 Annuities and retirement income plans—Limitation on annuity or retirement income plan payment. The boards of regents of the state universities, the boards of trustees of the regional universities and of The Evergreen State College, or the *state board for community college education shall not pay any amount to be added to the annuity or retirement income plan of any retired person who has served for less than ten years in one or more of the state institutions of higher education. In the case of persons who have served more than ten years but less than twenty-five years no amount shall be paid in excess of four percent of the amount authorized in subdivision (3) of RCW 28B.10.400 as now or hereafter amended, multiplied by the number of years of full time service rendered by such person: PROVIDED, That credit for years of service at an institution of higher education shall be limited to those years in which contributions were made by a faculty member or other employee designated pursuant to RCW 28B.10.400(1) and the institution or the state as a result of which a benefit is being received by a retired person from any Washington state public retirement plan: PROVIDED FURTHER, That all such benefits that a retired person is eligible to receive shall reduce any supplementation payments provided for in RCW 28B.10.400 as now or hereafter amended. [1979 ex.s. c 259 § 2; 1977 ex.s. c 169 § 18; 1973 1st ex.s. c 149 § 4; 1971 ex.s. c 261 § 4; 1969 ex.s. c 223 § 28B.10.415. Prior: 1955 c 123 § 4; 1947 c 223 § 4; Rem. Supp. 1947 § 4543-14. Formerly RCW 28.76.270.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Effective date—Severability—1979 ex.s. c 259: See notes following RCW 28B.10.400.

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Severability—Appropriation—Effective date—1973 1st ex.s. c 149: See notes following RCW 28B.10.400.

Severability—1971 ex.s. c 261: See note following RCW 28B.10.400.

28B.10.417 Annuities and retirement income plans—Rights and duties of faculty or employees with Washington state teachers' retirement system credit—Regional universities and The Evergreen State College. (1) A faculty member or other employee designated by the board of trustees of the applicable regional university or of The Evergreen State College as being subject to an annuity or retirement income plan and who, at the time of such designation, is a member of the Washington state teachers' retirement system, shall retain credit for such service in the Washington state teachers' retirement system and except as provided in subsection (2) of this section, shall leave his or her accumulated contributions in the teachers' retirement

fund. Upon his or her attaining eligibility for retirement under the Washington state teachers' retirement system, such faculty member or other employee shall receive from the Washington state teachers' retirement system a retirement allowance consisting of an annuity which shall be the actuarial equivalent of his or her accumulated contributions at his or her age when becoming eligible for such retirement and a pension for each year of creditable service established and retained at the time of said designation as provided in RCW 41.32.497 as now or hereafter amended. Anyone who on July 1, 1967, was receiving pension payments from the teachers' retirement system based on thirty-five years of creditable service shall thereafter receive a pension based on the total years of creditable service established with the retirement system: PROVIDED, HOWEVER, That any such faculty member or other employee who, upon attainment of eligibility for retirement under the Washington state teachers' retirement system, is still engaged in public educational employment, shall not be eligible to receive benefits under the Washington state teachers' retirement system until he or she ceases such public educational employment. Any retired faculty member or other employee who enters service in any public educational institution shall cease to receive pension payments while engaged in such service: PROVIDED FURTHER, That such service may be rendered up to seventy-five days in a school year without reduction of pension.

(2) A faculty member or other employee designated by the board of trustees of the applicable regional university or of The Evergreen State College as being subject to the annuity and retirement income plan and who, at the time of such designation, is a member of the Washington state teachers' retirement system may, at his or her election and at any time, on and after midnight June 10, 1959, terminate his or her membership in the Washington state teachers' retirement system and withdraw his or her accumulated contributions and interest in the teachers' retirement fund upon written application to the board of trustees of the Washington state teachers' retirement system. Faculty members or other employees who withdraw their accumulated contributions, on and after the date of withdrawal of contributions, shall no longer be members of the Washington state teachers' retirement system and shall forfeit all rights of membership, including pension benefits, theretofore acquired under the Washington state teachers' retirement system. [1977 ex.s. c 169 § 19; 1971 ex.s. c 261 § 5.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Severability—1971 ex.s. c 261: See note following RCW 28B.10.400.

28B.10.420 Annuities and retirement income plans—Retirement at age seventy—Reemployment, conditions when. (1) Except as provided otherwise in subsection (2) of this section, faculty members or other employees designated by the boards of regents of the state universities, the boards of trustees of the regional universities or of The Evergreen State College, or the *state board for community college education pursuant to RCW 28B.10.400 through 28B.10.420 as now or hereafter amended shall be retired from their employment with their institutions of

higher education not later than the end of the academic year next following their seventieth birthday.

(2) As provided in this subsection, the board of regents of a state university, the board of trustees of a regional university or The Evergreen State College, or the *state board for community college education may reemploy any person who is "retired" pursuant to subsection (1) of this section, who applies for reemployment and who has reached seventy years of age on or after July 1, 1970. The following provisions shall govern such reemployment:

(a) Prior to the reemployment, the board of regents, board of trustees, or state board shall have found that the person possesses outstanding qualifications which in the judgment of the board would permit the person to continue valuable service to the institution.

(b) The period of reemployment shall not be counted as service under, or result in any eligibility for benefits or increased benefits under, any state authorized or supported annuity or retirement income plan. Reemployment shall not result in the reemployed person or employer making any contributions to any such plan.

(c) No person may be reemployed on a full time basis if such person is receiving benefits under any state authorized or supported annuity or retirement income plan. The reemployment of any person on a full time basis shall be immediately terminated upon the person's obtaining of any such benefits.

(d) A person may be reemployed on a part time basis and receive or continue to receive any benefits for which such person is eligible under any state authorized or supported annuity or retirement income plan. Such part time work, however, shall not exceed forty percent of full time employment during any year.

(e) A person reemployed pursuant to this section shall comply with all conditions of reemployment and all rules providing for the administration of this subsection which are prescribed or adopted by the board of regents, or board of trustees, or by the *state board for community college education. [1979 c 14 § 1. Prior: 1977 ex.s. c 276 § 1; 1977 ex.s. c 169 § 20; 1973 1st ex.s. c 149 § 5; 1969 ex.s. c 223 § 28B.10.420; prior: 1947 c 223 § 5; Rem. Supp. 1947 § 4543-14a. Formerly RCW 28.76.280.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Severability—Appropriation—Effective date—1973 1st ex.s. c 149: See notes following RCW 28B.10.400.

Retirement, earliest age allowable: RCW 28B.10.400.

"State universities," "regional universities," "state college," "institutions of higher education," and "postsecondary institutions" defined: RCW 28B.10.016.

28B.10.423 Annuities and retirement income plans—Limit on retirement income—Adjustment of rates. It is the intent of RCW 28B.10.400, 28B.10.405, 28B.10.410, 28B.10.415, 28B.10.420, 28B.10.423 and 83.20.030 that the retirement income resulting from the contributions described herein from the state of Washington and the employee shall be projected actuarially so that it shall not exceed sixty percent of the average of the highest

two consecutive years salary. Periodic review of the retirement systems established pursuant to RCW 28B.10.400, 28B.10.405, 28B.10.410, 28B.10.415, 28B.10.420, 28B.10.423 and *83.20.030 will be undertaken at such time and in such manner as determined by the committees on ways and means of the senate and of the house of representatives and the public pension commission, and joint contribution rates will be adjusted if necessary to accomplish this intent. [1973 1st ex.s. c 149 § 8.]

***Reviser's note:** RCW 83.20.030 was repealed by 1979 ex.s. c 209 § 54.

Severability—Appropriation—Effective date—1973 1st ex.s. c 149: See notes following RCW 28B.10.400.

28B.10.425 Additional pension for certain retired university faculty members or employees. Retired faculty members or employees of the University of Washington or Washington State University, who have reached age sixty-five or are disabled from further service as of June 10, 1971, who at the time of retirement or disability were not eligible for federal old age, survivors, or disability benefit payments (social security), and who are receiving retirement income on July 1, 1970 pursuant to RCW 28B.10.400, shall, upon application approved by the board of regents of the institution retired from, receive an additional pension of three dollars per month for each year of full time service at such institution, including military leave. For periods of service that are less than full time service, the monthly rate of the pension shall be prorated accordingly to include such periods of service. [1971 ex.s. c 76 § 1.]

28B.10.430 Annuities and retirement income plans—Minimum monthly benefit—Computation. (1) For any person receiving a monthly benefit pursuant to a program established under RCW 28B.10.400, the pension portion of such benefit shall be the sum of the following amounts:

(a) One-half of the monthly benefit payable under such program by a life insurance company; and

(b) The monthly equivalent of the supplemental benefit described in RCW 28B.10.400(3).

(2) Notwithstanding any provision of law to the contrary, effective July 1, 1979, no person receiving a monthly benefit pursuant to RCW 28B.10.400 shall receive, as the pension portion of that benefit, less than ten dollars per month for each year of service creditable to the person whose service is the basis of the benefit. Portions of a year shall be treated as fractions of a year and the decimal equivalent shall be multiplied by ten dollars. Where the benefit was adjusted at the time benefit payments to the beneficiary commenced, the minimum pension provided in this section shall be adjusted in a manner consistent with that adjustment.

(3) Notwithstanding any provision of law to the contrary, effective July 1, 1979, the monthly benefit of each person who commenced receiving a monthly benefit under this chapter as of a date no later than July 1, 1974, shall be permanently increased by a post-retirement adjustment. Such adjustment shall be calculated as follows:

(a) Monthly benefits to which this subsection and subsection (2) of this section are both applicable shall be

determined by first applying subsection (2) and then applying this subsection. The department shall determine the total years of creditable service and the total dollar benefit base accrued as of December 31, 1978, except that this determination shall take into account only those persons to whom this subsection applies;

(b) The department shall multiply the total benefits determined in (a) of this subsection by six percent and divide the dollar value thus determined by the total service determined in (a) of this subsection. The resultant figure shall then be a post-retirement increase factor which shall be applied as specified in (c) of this subsection;

(c) Each person to whom this subsection applies shall receive an increase which is the product of the factor determined in (b) of this subsection multiplied by the years of creditable service. [1979 ex.s. c 96 § 5.]

28B.10.431 Annuities and retirement income plans—Monthly benefit—Post-retirement adjustment—Computation. Notwithstanding any provision of law to the contrary, effective July 1, 1983, the monthly benefit of each person who either is receiving a benefit pursuant to a program established under RCW 28B.10.400 for their service as of July 1, 1978, or commenced receiving a monthly benefit as a surviving spouse or written designated beneficiary with an insurable interest in the retiree as of a date no later than December 31, 1982, shall be permanently increased by a post-retirement adjustment of \$.74 per month for each year of creditable service the faculty member or employee established with the annuity or retirement income plan. Any fraction of a year of service shall be counted in the computation of the post-retirement adjustment. [1983 1st ex.s. c 56 § 2.]

Effective date—1983 1st ex.s. c 56: See note following RCW 2.12.046.

28B.10.480 Tax deferred annuities for employees. The regents or trustees of any of the state's institutions of higher education are authorized to provide and pay for tax deferred annuities for their respective employees in lieu of a portion of salary or wages as authorized under the provisions of 26 U.S.C., section 403(b), as amended by Public Law 87-370, 75 Stat. 796 as now or hereafter amended. [1969 ex.s. c 223 § 28B.10.480. Prior: 1965 c 54 § 1, part. Formerly RCW 28.02.120, part.]

28B.10.485 Charitable gift annuities, issuance of by universities and The Evergreen State College—Scope. The boards of the state universities, regional universities, and the state college are authorized to issue charitable gift annuities paying a fixed dollar amount to individual annuitants for their lifetimes in exchange for the gift of assets to the respective institution in a single transaction. The boards shall invest one hundred percent of the charitable gift annuity assets in a reserve for the lifetimes of the respective annuitants to meet liabilities that result from the gift program. [1979 c 130 § 1.]

Severability—1979 c 130: "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 130 § 15.]

Charitable gift annuity business: Chapter 48.38 RCW.

(1992 Ed.)

Title 48 RCW not to apply to charitable gift annuities issued by university or state college: RCW 48.23.010.

28B.10.487 Charitable gift annuities, issuance of by universities and The Evergreen State College—Obligation as to annuity payments. The obligation to make annuity payments to individuals under charitable gift annuity agreements issued by the board of a state university, regional university, or of the state college pursuant to RCW 28B.10.485 shall be secured by and limited to the assets given in exchange for the annuity and reserves established by the board. Such agreements shall not constitute:

(1) An obligation, either general or special, of the state; or

(2) A general obligation of a state university, regional university, or of the state college or of the board. [1979 c 130 § 5.]

Severability—1979 c 130: See note following RCW 28B.10.485.

28B.10.500 Removal of regents or trustees from universities and The Evergreen State College. No regent of the state universities, or trustee of the regional universities or of The Evergreen State College shall be removed during the term of office for which appointed, excepting only for misconduct or malfeasance in office, and then only in the manner hereinafter provided. Before any regent or trustee may be removed for such misconduct or malfeasance, a petition for removal, stating the nature of the misconduct or malfeasance of such regent or trustee with reasonable particularity, shall be signed and verified by the governor and served upon such regent or trustee. Said petition, together with proof of service of same upon such regent or trustee, shall forthwith be filed with the clerk of the supreme court. The chief justice of the supreme court shall thereupon designate a tribunal composed of three judges of the superior court to hear and adjudicate the charges. Such tribunal shall fix the time of hearing, which shall be public, and the procedure for the hearing, and the decision of such tribunal shall be final and not subject to review by the supreme court. Removal of any member of the board by the tribunal shall disqualify such member for reappointment. [1977 ex.s. c 169 § 21; 1969 ex.s. c 223 § 28B.10.500. Prior: 1943 c 59 § 1; Rem. Supp. 1943 § 4603-1. Formerly RCW 28.76.290.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.10.510 Attorney general as advisor. The attorney general of the state shall be the legal advisor to the presidents and the boards of regents and trustees of the institutions of higher education and he shall institute and prosecute or defend all suits in behalf of the same. [1973 c 62 § 3; 1969 ex.s. c 223 § 28B.10.510. Prior: 1909 c 97 p 242 § 8; RRS § 4560; prior: 1897 c 118 § 189; 1890 p 399 § 19. Formerly RCW 28.77.125; 28.76.300.]

Savings—1973 c 62: "Nothing in this 1973 amendatory act shall be construed to affect any existing right acquired under the statutes amended or repealed herein or the term of office or election or appointment or employment of any person elected, appointed or employed under the statutes amended or repealed herein." [1973 c 62 § 26.]

Severability—1973 c 62: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the

remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 c 62 § 28.]

Attorney general's powers in general: Chapter 43.10 RCW.

Employment of attorneys by state agencies restricted: RCW 43.10.067.

28B.10.520 Regents and trustees—Oaths. Each member of a board of regents or board of trustees of a university or other state institution of higher education, before entering upon his duties, shall take and subscribe an oath to discharge faithfully and honestly his duties and to perform strictly and impartially the same to the best of his ability, such oath to be filed with the secretary of state. [1977 ex.s. c 169 § 22; 1969 ex.s. c 223 § 28B.10.520. Prior: 1909 c 97 p 248 § 13; RRS § 4593; prior: 1897 c 118 § 202; 1891 c 145 § 14. Formerly RCW 28.80.140.]

~~Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.~~

28B.10.525 Regents and trustees—Travel expenses. Each member of a board of regents or board of trustees of a university or other state institution of higher education, shall be entitled to receive travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended for each day or portion thereof in which he or she is actually engaged in business of the board. [1979 c 14 § 2. Prior: 1977 ex.s. c 169 § 23; 1977 ex.s. c 118 § 1; 1975-'76 2nd ex.s. c 34 § 72; 1969 ex.s. c 223 § 28B.10.525; prior: (i) 1939 c 176 § 1, part; 1927 c 227 § 1, part; 1909 c 97 p 240 § 5, part; RRS § 4557, part. Formerly RCW 28.77.130, part. (ii) 1909 c 97 p 249 § 14; RRS § 4594; prior: 1897 c 118 § 203; 1891 c 145 § 15. Formerly RCW 28.80.150.]

~~Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.~~

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

28B.10.528 Delegation of powers and duties by governing boards. The governing boards of institutions of higher education shall have power, when exercised by resolution, to delegate to the president or his designee, of their respective university or college, any of the powers and duties vested in or imposed upon such governing board by law. Delegated powers and duties may be exercised in the name of the respective governing boards. [1971 ex.s. c 57 § 21.]

28B.10.550 Police forces for universities and The Evergreen State College—Authorized. The boards of regents of the state universities, and the boards of trustees of the regional universities or of The Evergreen State College, acting independently and each on behalf of its own institution:

(1) May each establish a police force for its own institution, which force shall function under such conditions and regulations as the board prescribes; and

(2) May supply appropriate badges and uniforms indicating the positions and authority of the members of such police force. [1977 ex.s. c 169 § 24; 1969 ex.s. c 223 § 28B.10.550. Prior: 1965 ex.s. c 16 § 1; 1949 c 123 § 1; Rem. Supp. 1949 § 4543-16. Formerly RCW 28.76.310.]

~~Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.~~

28B.10.555 Police forces for universities and The Evergreen State College—Powers. The members of a police force established under authority of RCW 28B.10.550, when appointed and duly sworn:

(1) Shall be peace officers of the state and have such police powers as are vested in sheriffs and peace officers generally under the laws of this state; and

(2) May exercise such powers upon state lands devoted mainly to the educational or research activities of the institution to which they were appointed; and

(3) Shall have power to pursue and arrest beyond the limits of such state lands, if necessary, all or any violators of the rules or regulations herein provided for. [1969 ex.s. c 223 § 28B.10.555. Prior: 1965 ex.s. c 16 § 2; 1949 c 123 § 2; Rem. Supp. 1949 § 4543-17. Formerly RCW 28.76.320.]

28B.10.560 Police forces for universities and The Evergreen State College—Establishment of traffic regulations—Adjudication of parking infractions—Appeal. (1) The boards of regents of the state universities, and the boards of trustees of the regional universities and of The Evergreen State College, acting independently and each on behalf of its own institution, may each:

(a) Establish and promulgate rules and regulations governing pedestrian traffic and vehicular traffic and parking upon lands and facilities of the university or college;

(b) Adjudicate matters involving parking infractions internally; and

(c) Collect and retain any penalties so imposed.

(2) If the rules or regulations promulgated under subsection (1) of this section provide for internal adjudication of parking infractions, a person charged with a parking infraction who deems himself or herself aggrieved by the final decision in an internal adjudication may, within ten days after written notice of the final decision, appeal by filing a written notice thereof with the college or university police force. Documents relating to the appeal shall immediately be forwarded to the district court in the county in which the offense was committed, which court shall have jurisdiction over such offense and such appeal shall be heard de novo. [1983 c 221 § 1; 1977 ex.s. c 169 § 25; 1969 ex.s. c 223 § 28B.10.560. Prior: 1965 ex.s. c 16 § 3; 1949 c 123 § 3; Rem. Supp. 1949 § 4543-18. Formerly RCW 28.76.330.]

~~Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.~~

28B.10.567 Police forces for universities and The Evergreen State College—Benefits for duty-related death, disability or injury. The boards of regents of the state universities and board of trustees of the regional universities and the board of trustees of The Evergreen State College are authorized and empowered, under such rules and regulations as any such board may prescribe for the duly sworn police officers employed by any such board as members of a police force established pursuant to RCW 28B.10.550, to provide for the payment of death or disability benefits or medical

expense reimbursement for death, disability, or injury of any such duly sworn police officer who, in the line of duty, loses his life or becomes disabled or is injured, and for the payment of such benefits to be made to any such duly sworn police officer or his surviving spouse or the legal guardian of his child or children, as defined in RCW 41.26.030(7), or his estate: PROVIDED, That the duty-related benefits authorized by this section shall in no event be greater than the benefits authorized on June 25, 1976 for duty-related death, disability, or injury of a law enforcement officer under chapter 41.26 RCW: PROVIDED FURTHER, That the duty-related benefits authorized by this section shall be reduced to the extent of any amounts received or eligible to be received on account of the duty-related death, disability, or injury to any such duly sworn police officer, his surviving spouse, the legal guardian of his child or children, or his estate, under workers' compensation, social security including the changes incorporated under Public Law 89-97 as now or hereafter amended, or disability income insurance and health care plans under chapter 41.05 RCW. [1987 c 185 § 2; 1977 ex.s. c 169 § 26; 1975-'76 2nd ex.s. c 81 § 1.]

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.10.569 Crime statistics reporting—Safety information provided—Task forces on campus security and safety. (1) Each institution of higher education with a commissioned police force shall report to the Washington association of sheriffs and police chiefs or its successor agency, on a monthly basis, crime statistics for the Washington state uniform crime report, in the format required by the Washington association of sheriffs and police chiefs, or its successor agency. Institutions of higher education which do not have commissioned police forces shall report crime statistics through appropriate local law enforcement agencies.

(2) Each institution of higher education shall publish and distribute a report which shall be updated annually and which shall include the crime statistics as reported under subsection (1) of this section for the most recent three-year period. Upon request, the institution shall provide the report to every person who submits an application for admission to either a main or branch campus, and to each new employee at the time of employment. In its acknowledgement of receipt of the formal application for admission, the institution shall notify the applicant of the availability of such information. The information also shall be provided on an annual basis to all students and employees. Institutions with more than one campus shall provide the required information on a campus-by-campus basis.

(3) Each institution of higher education shall provide to every new student and new employee, and upon request to other interested persons, information which follows the general categories for safety policies and procedures outlined in this section. Such categories shall, at a minimum, include campus enrollments, campus nonstudent work force profile, the number and duties of campus security personnel, arrangements with state and local police, and policies on controlled substances. Information for the most recent academic year also shall include a description of any programs offered by an institution's student affairs or

services department, and by student government organizations regarding crime prevention and counseling, including a directory of available services and appropriate telephone numbers and physical locations of these services. In addition, institutions maintaining student housing facilities shall include information detailing security policies and programs.

Institutions with a main campus and one or more branch campuses shall provide the information on a campus-by-campus basis.

In the case of community colleges, colleges shall provide such information to the main campuses only and shall provide reasonable alternative information at any off-campus centers and other affiliated college sites enrolling less than one hundred students.

(4) Each institution shall establish a task force which shall annually examine campus security and safety issues. The task force shall review the report published and distributed pursuant to this section in order to ensure the accuracy and effectiveness of the report, and make any suggestions for improvement. This task force shall include representation from the institution's administration, faculty, staff, recognized student organization, and police or security organization. [1990 c 288 § 7.]

28B.10.570 Interfering by force or violence with any administrator, faculty member or student unlawful. It shall be unlawful for any person, singly or in concert with others, to interfere by force or violence with any administrator, faculty member or student of any university, college or community college who is in the peaceful discharge or conduct of his duties or studies. [1971 c 45 § 1; 1970 ex.s. c 98 § 1. Formerly RCW 28.76.600.]

Severability—1971 c 45: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provisions to other persons or circumstances is not affected." [1971 c 45 § 8.]

Severability—1970 ex.s. c 98: "If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section, or part of this act, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of this act, but the effect thereof shall be confined to the clause, sentence, paragraph, section or part of this act so adjudged to be invalid or unconstitutional." [1970 ex.s. c 98 § 5.]

Disturbing school, school activities or meetings—Penalty—Disposition of fines: RCW 28A.635.030.

28B.10.571 Intimidating any administrator, faculty member or student by threat of force or violence unlawful. It shall be unlawful for any person, singly or in concert with others, to intimidate by threat of force or violence any administrator, faculty member or student of any university, college or community college who is in the peaceful discharge or conduct of his duties or studies. [1971 c 45 § 2; 1970 ex.s. c 98 § 2. Formerly RCW 28.76.601.]

Severability—1971 c 45: See note following RCW 28B.10.570.

Severability—1970 ex.s. c 98: See note following RCW 28B.10.570.

28B.10.572 Certain unlawful acts—Disciplinary authority exception. The crimes defined in RCW 28B.10.570 through 28B.10.573 shall not apply to school administrators or teachers who are engaged in the reasonable

exercise of their disciplinary authority. [1970 ex.s. c 98 § 3. Formerly RCW 28.76.602.]

Severability—1970 ex.s. c 98: See note following RCW 28B.10.570.

28B.10.573 Certain unlawful acts—Penalty. Any person guilty of violating RCW 28B.10.570 through 28B.10.573 shall be deemed guilty of a gross misdemeanor and, upon conviction thereon, shall be fined not more than five hundred dollars, or imprisoned in jail not more than six months or both such fine and imprisonment. [1970 ex.s. c 98 § 4. Formerly RCW 28.76.603.]

Severability—1970 ex.s. c 98: See note following RCW 28B.10.570.

28B.10.580 Term papers, theses, dissertations, sale of prohibited—Legislative findings—Purpose. (1) The legislature finds that commercial operations selling term papers, theses, and dissertations encourages academic dishonesty, and in so doing impairs the public confidence in the credibility of institutions of higher education whether in this state or any other to function within their prime mission, that of providing a quality education to the citizens of this or any other state.

(2) The legislature further finds that this problem, beyond the ability of these institutions to control effectively, is a matter of state concern, while at the same time recognizing the need for and the existence of legitimate research functions.

It is the declared intent of RCW 28B.10.580 through 28B.10.584, therefore, that the state of Washington prohibit the preparation for sale or commercial sale of term papers, theses and dissertations: PROVIDED, That such legislation shall not affect legitimate and proper research activities: PROVIDED FURTHER, That such legislation does not impinge on the rights, under the First Amendment, of freedom of speech, of the press, and of distributing information. [1981 c 23 § 1; 1979 c 43 § 1.]

Severability—1981 c 23: "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." [1981 c 23 § 3.]

Severability—1979 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." [1979 c 43 § 4.]

28B.10.582 Term papers, theses, dissertations, sale of prohibited—Definitions. Unless the context clearly indicates otherwise, the words used in RCW 28B.10.580 through 28B.10.584 shall have the meaning given in this section:

(1) "Person" means any individual, partnership, corporation, or association.

(2) "Assignment" means any specific written, recorded, pictorial, artistic, or other academic task, including but not limited to term papers, theses, dissertations, essays, and reports, that is intended for submission to any postsecondary institution in fulfillment of the requirements of a degree, diploma, certificate, or course of study at any such educational institution.

(3) "Prepare" means to create, write, or in any way produce in whole or substantial part a term paper, thesis,

dissertation, essay, report, or other assignment for a monetary fee.

(4) "Postsecondary institution" means any university, college, or other postsecondary educational institution. [1981 c 23 § 2; 1979 c 43 § 2.]

Severability—1981 c 23: See note following RCW 28B.10.580.

Severability—1979 c 43: See note following RCW 28B.10.580.

28B.10.584 Term papers, theses, dissertations, sale of prohibited—Violations enumerated—Exempted acts—Civil penalties—Injunctive relief. (1) No person shall prepare, offer to prepare, cause to be prepared, sell, or offer for sale to any other person, including any student enrolled in a postsecondary institution, any assignment knowing, or under the circumstances having reason to know, that said assignment is intended for submission either in whole or substantial part under a student's name in fulfillment of the requirements for a degree, diploma, certificate, or course of study at any postsecondary institution.

(2) No person shall sell or offer for sale to any student enrolled in a postsecondary institution any assistance in the preparation, research or writing of an assignment knowing or under the circumstances having reason to know, that said assignment is intended for submission either in whole or substantial part under said student's name to such educational institution in fulfillment of the requirements for a degree, diploma, certificate, or course of study.

(3) Nothing contained in this section shall prevent any person from providing tutorial assistance, research material, information, or other assistance to persons enrolled in a postsecondary institution which is not intended for submission in whole or in substantial part as an assignment under the student's name to such institution. Nor shall any person be prevented by this section from rendering services for a monetary fee which includes typing, assembling, transcription, reproduction, or editing of a manuscript or other assignment: PROVIDED, That such services are not rendered with the intent of making substantive changes in a manuscript or other assignment.

(4) Any person violating any provision of RCW 28B.10.580, 28B.10.582 or 28B.10.584 shall be subject to civil penalties of not more than one thousand dollars for each violation. Any court of competent jurisdiction is hereby authorized to grant such further relief as is necessary to enforce the provisions of this section, including the issuance of an injunction.

(5) Any person against whom a judgment has been entered pursuant to subsection (4) of this section, shall upon any subsequent violation of RCW 28B.10.580, 28B.10.582 or 28B.10.584 be subject to civil penalties not to exceed ten thousand dollars. Any court of competent jurisdiction is hereby authorized to grant such further relief as is necessary to enforce the provisions of this section, including the issuance of an injunction.

(6) Actions for injunction under the provisions of this section may be brought in the name of the state of Washington upon the complaint of the attorney general or any prosecuting attorney in the name of the state of Washington. [1979 c 43 § 3.]

Severability—1979 c 43: See note following RCW 28B.10.580.

28B.10.600 District schools may be used for teacher training by universities and The Evergreen State College—Authority. The boards of regents of the state universities are each authorized to enter into agreements with the board of directors of any school district in this state whereby one or more of the public schools operated by such district may be used by the university for the purpose of training students at said university as teachers, supervisors, principals, or superintendents. The boards of trustees of the regional universities and of The Evergreen State College are authorized to enter into similar agreements for the purpose of training students at their institutions as teachers, supervisors, or principals. [1977 ex.s. c 169 § 27; 1969 ex.s. c 223 § 28B.10.600. Prior: 1949 c 182 § 1; Rem. Supp. 1949 § 4543-40. Formerly RCW 28.76.350.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Regional university model schools and training departments: RCW 28B.35.300 through 28B.35.315.

The Evergreen State College model schools and training departments: RCW 28B.40.300 through 28B.40.315.

28B.10.605 District schools may be used for teacher training by universities and The Evergreen State College—Agreement for financing, organization, etc. The financing and the method of organization and administration of such a training program operated by agreement between a state university board of regents or a regional university board of trustees or The Evergreen State College board of trustees, and the board of directors of any school district, shall be determined by agreement between them. [1977 ex.s. c 169 § 28; 1969 ex.s. c 223 § 28B.10.605. Prior: 1949 c 182 § 2; Rem. Supp. 1949 § 4543-41. Formerly RCW 28.76.360.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.10.620 Agreements for research work by private nonprofit corporations at universities—Authority. The boards of regents of the state universities are hereby empowered to enter into agreements with corporations organized under *chapters 24.08, 24.16 or 24.20 RCW, whereby such corporations may be permitted to conduct on university property devoted mainly to medical, educational or research activities, under such conditions as the boards of regents shall prescribe, any educational, hospital, research or related activity which the boards of regents shall find will further the objects of the university. [1969 ex.s. c 223 § 28B.10.620. Prior: 1949 c 152 § 1; Rem. Supp. 1949 § 4543-30. Formerly RCW 28.76.370.]

***Reviser's note:** Chapters 24.08 and 24.16 RCW were repealed by 1967 c 235; but see chapter 24.03 RCW, the Washington nonprofit corporation act.

28B.10.625 Agreements for research work by private nonprofit corporations at universities—Funds may be expended in cooperative effort. The boards of regents of the state universities may expend funds available to said institutions in any cooperative effort with such corporations which will further the objects of the particular university and may permit any such corporation or corporations to use any property of the university in carrying on

said functions. [1969 ex.s. c 223 § 28B.10.625. Prior: 1949 c 152 § 2; Rem. Supp. 1949 § 4543-31. Formerly RCW 28.76.380.]

28B.10.640 Student associations to contract for certain purchases, concessions, printing, etc.—Procedure. The associated students of the University of Washington, the associated students of Washington State University, the student associations of the state community colleges and the student associations of the regional universities and of The Evergreen State College shall contract for all purchases for printing of athletic programs, athletic tickets, athletic press brochures, yearbooks, magazines, newspapers, and letting of concessions, exceeding one thousand dollars, notice of call for bid on the same to be published in at least two newspapers of general circulation in the county wherein the institution is located two weeks prior to the award being made. The contract shall be awarded to the lowest responsible bidder, if the price bid is fair and reasonable and not greater than the market value and price, and if the bid satisfactorily covers the quality, design, performance, convenience and reliability of service of the manufacturer and/or dealer. The aforesaid student associations may require such security as they deem proper to accompany the bids submitted, and they shall also fix the amount of the bond or other security that shall be furnished by the person to whom the contract is awarded. Such student associations may reject any or all bids submitted, if for any reason it is deemed for the best interest of their organizations to do so and readvertise in accordance with the provisions of this section. The student associations may reject the bid of any person who has had a prior contract, and who did not, in its opinion, faithfully comply with its terms: PROVIDED, That nothing in this section shall apply to printing done or presses owned and operated by the associated students of the University of Washington, the associated students of Washington State University or the student associations of the regional universities or of The Evergreen State College or community colleges, or to printing done on presses owned or operated by their respective institutions. [1977 ex.s. c 169 § 29; 1969 ex.s. c 223 § 28B.10.640. Prior: 1967 ex.s. c 8 § 50; 1957 c 212 § 1. Formerly RCW 28.76.390.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.10.648 Employees—Peer review committees—Members' immunity—Proceedings—Statement of reasons—Legal representation of members. (1) Employees, agents, or students of institutions of higher education serving on peer review committees which recommend or decide on appointment, reappointment, tenure, promotion, merit raises, dismissal, or other disciplinary measures for employees of the institution, are immune from civil actions for damages arising from the good faith performance of their duties as members of the committees. Individuals who provide written or oral statements in support of or against a person reviewed are also immune from civil actions if their statements are made in good faith.

(2) Peer review proceedings shall be pursuant to rules and regulations promulgated by the respective institutions of higher education.

(3) Upon the request of an evaluated person, the appropriate administrative officer of the institution shall provide a statement of the reasons of the peer review committees and of participating administrative officers for a final unfavorable decision on merit, promotion, tenure or reappointment. In the case of a disciplinary or dismissal proceeding, a statement of reasons shall be provided by the reviewing committee to the evaluated person for any decision unfavorable to such person.

(4) The institutions of higher education shall provide legal representation for any past or current members of the peer review committee and for individuals who testify orally or in writing in good faith before such committee in any legal action which may arise from committee proceedings. [1984 c 137 § 1.]

Severability—1984 c 137: "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." [1984 c 137 § 2.]

28B.10.650 Remunerated professional leaves for faculty members of institutions of higher education. It is the intent of the legislature that when the state and regional universities, The Evergreen State College, and community colleges grant professional leaves to faculty and exempt staff, such leaves be for the purpose of providing opportunities for study, research, and creative activities for the enhancement of the institution's instructional and research programs.

The boards of regents of the state universities, the boards of trustees of the regional universities and of The Evergreen State College and the board of trustees of each community college district may grant remunerated professional leaves to faculty members and exempt staff, as defined in RCW 28B.16.040, in accordance with regulations adopted by the respective governing boards for periods not to exceed twelve consecutive months in accordance with the following provisions:

(1) The remuneration from state general funds and general local funds for any such leave granted for any academic year shall not exceed the average of the highest quartile of a rank order of salaries of all full time teaching faculty holding academic year contracts or appointments at the institution or in the district.

(2) Remunerated professional leaves for a period of more or less than an academic year shall be compensated at rates not to exceed a proportional amount of the average salary as otherwise calculated for the purposes of subsection (1) of this section.

(3) The grant of any such professional leave shall be contingent upon a signed contractual agreement between the respective governing board and the recipient providing that the recipient shall return to the granting institution or district following his or her completion of such leave and serve in a professional status for a period commensurate with the amount of leave so granted. Failure to comply with the provisions of such signed agreement shall constitute an obligation of the recipient to repay to the institution any remuneration received from the institution during the leave.

(4) The aggregate cost of remunerated professional leaves awarded at the institution or district during any year, including the cost of replacement personnel, shall not exceed

the cost of salaries which otherwise would have been paid to personnel on leaves: PROVIDED, That for community college districts the aggregate cost shall not exceed one hundred fifty percent of the cost of salaries which would have otherwise been paid to personnel on leaves: PROVIDED FURTHER, That this subsection shall not apply to any community college district with fewer than seventy-five full time faculty members and granting fewer than three individuals such leaves in any given year.

(5) The average number of annual remunerated professional leaves awarded at any such institution or district shall not exceed four percent of the total number of full time equivalent faculty, as defined by the office of financial management, who are engaged in instruction, and exempt staff as defined in RCW 28B.16.040.

(6) Negotiated agreements made in accordance with chapter 28B.52 RCW and entered into after July 1, 1977, shall be in conformance with the provisions of this section.

(7) The respective institutions and districts shall maintain such information which will ensure compliance with the provisions of this section. The higher education coordinating board shall periodically request such information as to ensure institutions are in compliance. [1985 c 370 § 53; 1981 c 113 § 1; 1979 c 44 § 1; 1979 c 14 § 3. Prior: 1977 ex.s. c 173 § 1; 1977 ex.s. c 169 § 30; 1969 ex.s. c 223 § 28B.10.650; prior: 1959 c 155 § 1. Formerly RCW 28.76.400.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Effective date—1977 ex.s. c 173: "This act shall take effect on July 1, 1977." [1977 ex.s. c 173 § 4.]

Severability—1977 ex.s. c 173: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 173 § 3.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.10.660 Liability, life, health, health care, accident, disability, and salary insurance or protection authorized—Premiums. The regents or trustees of any of the state's institutions of higher education may make available liability, life, health, health care, accident, disability and salary protection or insurance or any one of, or a combination of, the enumerated types of insurance, or any other type of insurance or protection, for the regents or trustees and students of the institution. The premiums due on such protection or insurance shall be borne by the assenting regents, trustees, or students. The regents or trustees of any of the state institutions of higher education may make liability insurance available for employees of the institutions. The premiums due on such liability insurance shall be borne by the university or college. [1979 ex.s. c 88 § 1. Prior: 1973 1st ex.s. c 147 § 4; 1973 1st ex.s. c 9 § 2; 1971 ex.s. c 269 § 3; 1969 ex.s. c 237 § 4; 1969 ex.s. c 223 § 28B.10.660; prior: 1967 c 135 § 2, part; 1959 c 187 § 1, part. Formerly RCW 28.76.410, part.]

Effective date—Effect of veto—Savings—Severability—1973 1st ex.s. c 147: See notes following RCW 41.05.050.

Severability—1971 ex.s. c 269: See note following RCW 28A.400.350.

28B.10.665 Liability insurance for officers and employees authorized. See RCW 36.16.138.

28B.10.700 Physical education in curriculum. The *state board for community college education, the boards of trustees of the regional universities and of The Evergreen State College, and the boards of regents of the state universities, with appreciation of the legislature's desire to emphasize physical education courses in their respective institutions, shall provide for the same, being cognizant of legislative guide lines put forth in RCW 28A.230.050 relating to physical education courses in high schools. [1977 ex.s. c 169 § 31; 1969 ex.s. c 223 § 28B.10.700. Prior: 1963 c 235 § 1, part; prior: (i) 1923 c 78 § 1, part; 1919 c 89 § 2, part; RRS § 4683, part. (ii) 1919 c 89 § 5, part; RRS § 4686, part. Formerly RCW 28.05.040, part.]

*Reviser's note: The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.10.703 Programs for intercollegiate athletic competition—Authorized. The governing boards of each of the state universities, the regional universities, The Evergreen State College, and community colleges in addition to their other duties prescribed by law shall have the power and authority to establish programs for intercollegiate athletic competition. Such competition may include participation as a member of an athletic conference or conferences, in accordance with conference rules. [1977 ex.s. c 169 § 32; 1971 ex.s. c 28 § 2.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.10.704 Funds for assistance of student participants in intercollegiate activities or activities relating to performing arts. Funds used for purposes of providing scholarships or other forms of financial assistance to students in return for participation in intercollegiate athletics in accordance with RCW 28B.10.703 shall include but not be limited to moneys received as contributed or donated funds, or revenues derived from athletic events, including gate receipts and revenues obtained from the licensing of radio and television broadcasts.

Funds used for purposes of providing scholarships or other forms of financial assistance to students in return for participation in curriculum-related activities relating to performing arts shall include but not be limited to moneys received as contributed or donated funds, or revenues derived from performing arts events, including admission receipts and revenues obtained from the licensing of radio and television broadcasts. [1979 ex.s. c 1 § 1; 1973 1st ex.s. c 46 § 9; 1971 ex.s. c 28 § 3.]

Severability—1973 1st ex.s. c 46: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 1st ex.s. c 46 § 11.]

28B.10.710 Washington state or Pacific Northwest history in curriculum. There shall be a one quarter or semester course in either Washington state history and

government, or Pacific Northwest history and government in the curriculum of all teachers' colleges and teachers' courses in all institutions of higher education. No person shall be graduated from any of said schools without completing said course of study, unless otherwise determined by the state board of education. [1969 ex.s. c 223 § 28B.10.710. Prior: 1967 c 64 § 1, part; 1963 c 31 § 1, part; 1961 c 47 § 2, part; 1941 c 203 § 1, part; Rem. Supp. 1941 § 4898-3, part. Formerly RCW 28.05.050, part.]

28B.10.730 AIDS information—Four-year institutions. The governing board of each state four-year institution of higher education shall make information available to all newly matriculated students on methods of transmission of the human immunodeficiency virus and prevention of acquired immunodeficiency syndrome. The curricula and materials shall be reviewed for medical accuracy by the office on AIDS in coordination with the appropriate regional AIDS service network. [1988 c 206 § 501.]

Severability—1988 c 206: See RCW 70.24.900.

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 higher education coordinating board 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. [1985 c 370 § 54; 1980 c 13 § 1.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

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.]

28B.10.792 State student financial aid program—Certain residents attending college or university in another state, applicability to—Guidelines. The higher education coordinating board 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. [1985 c 370 § 55; 1980 c 13 § 2.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability—1980 c 13: See note following RCW 28B.10.790.

28B.10.800 State student financial aid program—

Purpose. The sole purpose of RCW 28B.10.800 through 28B.10.824 is to establish a state of Washington student financial aid program, thus assisting financially needy or disadvantaged students domiciled in Washington to obtain the opportunity of attending an accredited institution of higher education, as defined in RCW 28B.10.802(1). [1969 ex.s. c 222 § 7. Formerly RCW 28.76.430.]

Reviser's note: "this act" is translated for RCW purposes only as applicable to Part IV of chapter 222, Laws of 1969 ex.s., which part provided for a state financial aid program.

Legislative declaration—1969 ex.s. c 222: "The legislature hereby declares that it regards the higher education of its qualified domiciliaries to be a public purpose of great importance to the welfare and security of this state and nation; and further declares that the establishment of a student financial aid program, assisting financially needy or disadvantaged students in this state to be a desirable and economical method of furthering this purpose. The legislature has concluded that the benefit to the state in assuring the development of the talents of its qualified domiciliaries will bring tangible benefits to the state in the future.

The legislature further declares that there is an urgent need at present for the establishment of a state of Washington student financial aid program, and that the most efficient and economical way to meet this need is through the plan prescribed in this act." [1969 ex.s. c 222 § 6.]

Severability—1969 ex.s. c 222: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1969 ex.s. c 222 § 24.]

State educational grant account—Established—Deposits—Use: RCW 28B.10.821.

28B.10.802 State student financial aid program—

Definitions. As used in RCW 28B.10.800 through 28B.10.824:

(1) "Institutions of higher education" shall mean (1) any public university, college, community college, or vocational-technical institute operated by the state of Washington or any political subdivision thereof or (2) any other university, college, school, or institute in the state of Washington offering instruction beyond the high school level which is a member institution of an accrediting association recognized by rule of the board for the purposes of this section: PROVIDED, That any 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: PROVIDED FURTHER, That no institution of higher education shall be eligible to participate in a student financial aid program unless it agrees to and complies with program rules and regulations adopted pursuant to RCW 28B.10.822.

(2) The term "financial aid" shall mean loans and/or grants to needy students enrolled or accepted for enrollment as a student at institutions of higher education.

(3) The term "needy student" shall mean a post high school student of an institution of higher learning as defined in subsection (1) of this section who demonstrates to the board the financial inability, either through the student's parents, family and/or personally, to meet the total cost of board, room, books, and tuition and incidental fees for any semester or quarter.

(4) The term "disadvantaged student" shall mean a post high school student who by reason of adverse cultural, educational, environmental, experiential, familial or other circumstances is unable to qualify for enrollment as a full

time student in an institution of higher learning, who would otherwise qualify as a needy student, and who is attending an institution of higher learning under an established program designed to qualify the student for enrollment as a full time student.

(5) "Commission" or "board" shall mean the higher education coordinating board. [1989 c 254 § 2; 1985 c 370 § 56; 1979 ex.s. c 235 § 1; 1975 1st ex.s. c 132 § 16; 1969 ex.s. c 222 § 8. Formerly RCW 28.76.440.]

Intent—1989 c 254: "It is the intent of the legislature that nothing in this act shall prevent or discourage an individual from making an effort to repay any state financial aid awarded during his or her collegiate career." [1989 c 254 § 1.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Effective date—Severability—1975 1st ex.s. c 132: See notes following RCW 28B.80.200.

Loan programs for mathematics and science teachers: RCW 28B.15.760 through 28B.15.766.

28B.10.804 State student financial aid program—

Commission, guidelines in performance of duties. The commission shall be cognizant of the following guidelines in the performance of its duties:

(1) The commission shall be research oriented, not only at its inception but continually through its existence.

(2) The commission shall coordinate all existing programs of financial aid except those specifically dedicated to a particular institution by the donor.

(3) The commission shall take the initiative and responsibility for coordinating all federal student financial aid programs to insure that the state recognizes the maximum potential effect of these programs, and shall design the state program which complements existing federal, state and institutional programs.

(4) Counseling is a paramount function of student financial aid, and in most cases could only be properly implemented at the institutional levels; therefore, state student financial aid programs shall be concerned with the attainment of those goals which, in the judgment of the commission, are the reasons for the existence of a student financial aid program, and not solely with administration of the program on an individual basis.

(5) In the development of any new program, the commission shall seek advice from and consultation with the institutions of higher learning, state agencies, industry, labor, and such other interested groups as may be able to contribute to the effectiveness of program development and implementation.

(6) The "package" approach of combining loans, grants and employment for student financial aid shall be the conceptual element of the state's involvement. [1969 ex.s. c 222 § 10. Formerly RCW 28.76.450.]

28B.10.806 State student financial aid program—

Commission, powers and duties generally. The commission shall have the following powers and duties:

(1) Conduct a full analysis of student financial aid as a means of:

(a) Fulfilling educational aspirations of students of the state of Washington, and

(b) Improving the general, social, cultural, and economic character of the state.

Such an analysis will be a continuous one and will yield current information relevant to needed improvements in the state program of student financial aid. The commission will disseminate the information yielded by their analyses to all appropriate individuals and agents.

(c) This study should include information on the following:

(i) all programs and sources of available student financial aid,

(ii) distribution of Washington citizens by socio-economic class,

(iii) data from federal and state studies useful in identifying:

(A) demands of students for specific educational goals in colleges, and

(B) the discrepancy between high school students' preferences and the colleges they actually selected.

(2) Design a state program of student financial aid based on the data of the study referred to in this section. The state program will supplement available federal and local aid programs. The state program of student financial aid will not exceed the difference between the budgetary costs of attending an institution of higher learning and the student's total resources, including family support, personal savings, employment, and federal and local aid programs.

(3) Determine and establish criteria for financial need of the individual applicant based upon the consideration of that particular applicant. In making this determination the commission shall consider the following:

(a) Assets and income of the student.

(b) Assets and income of the parents, or the individuals legally responsible for the care and maintenance of the student.

(c) The cost of attending the institution the student is attending or planning to attend.

(d) Any other criteria deemed relevant to the commission.

(4) Set the amount of financial aid to be awarded to any individual needy or disadvantaged student in any school year.

(5) Award financial aid to needy or disadvantaged students for a school year based upon only that amount necessary to fill the financial gap between the budgetary cost of attending an institution of higher education and the family and student contribution.

(6) Review the need and eligibility of all applications on an annual basis and adjust financial aid to reflect changes in the financial need of the recipients and the cost of attending the institution of higher education. [1989 c 254 § 3; 1969 ex.s. c 222 § 11. Formerly RCW 28.76.460.]

Intent—1989 c 254: See note following RCW 28B.10.802.

28B.10.808 State student financial aid program—Commission, procedure for awarding grants. In awarding grants, the commission shall proceed substantially as follows: PROVIDED, That nothing contained herein shall be construed to prevent the commission, in the exercise of its sound discretion, from following another procedure when the best interest of the program so dictates:

(1) The commission shall annually select the financial aid award winners from among Washington residents applying for student financial aid who have been ranked according to financial need as determined by the amount of the family contribution and other considerations brought to the commission's attention.

(2) The financial need of the highest ranked students shall be met by grants depending upon the evaluation of financial need until the total allocation has been disbursed. Funds from grants which are declined, forfeited or otherwise unused shall be reawarded until dispersed.

(3) A grant may be renewed until the course of study is completed, but not for more than an additional four academic years beyond the first year of the award. These shall not be required to be consecutive years. Qualifications for renewal will include maintaining satisfactory academic standing toward completion of the course of study, and continued eligibility as determined by the commission. Should the recipient terminate his or her enrollment for any reason during the academic year, the unused portion of the grant shall be returned to the state educational grant fund by the institution according to the institution's own policy for issuing refunds, except as provided in RCW 28B.10.8081.

(4) In computing financial need the commission shall determine a maximum student expense budget allowance, not to exceed an amount equal to the total maximum student expense budget at the public institutions plus the current average state appropriation per student for operating expense in the public institutions. [1991 c 164 § 4; 1989 c 254 § 4; 1969 ex.s. c 222 § 12. Formerly RCW 28.76.470.]

Intent—1989 c 254: See note following RCW 28B.10.802.

28B.10.8081 Persian Gulf veterans—Limited application of RCW 28B.10.808. Under rules adopted by the board, the provisions of RCW 28B.10.808(3) shall not apply to eligible students, as defined in RCW 28B.10.017, and eligible students shall not be required to repay the unused portions of grants received under the state student financial aid program. [1991 c 164 § 3.]

28B.10.810 State student financial aid program—Qualifications for student to be eligible for aid. For a student to be eligible for financial aid the student must:

(1) Be a "needy student" or "disadvantaged student" as determined by the commission in accordance with RCW 28B.10.802 (3) and (4).

(2) Have been domiciled within the state of Washington for at least one year.

(3) Be enrolled or accepted for enrollment on at least a half-time basis at an institution of higher education in Washington.

(4) Have complied with all the rules and regulations adopted by the commission for the administration of RCW 28B.10.800 through 28B.10.824. [1989 c 254 § 5; 1969 ex.s. c 222 § 13. Formerly RCW 28.76.475.]

Intent—1989 c 254: See note following RCW 28B.10.802.

28B.10.812 State student financial aid program—Aid granted without regard to applicant's race, creed, color, religion, sex, or ancestry. All student financial aid shall be granted by the commission without regard to the

applicant's race, creed, color, religion, sex, or ancestry. [1969 ex.s. c 222 § 14. Formerly RCW 28.76.480.]

28B.10.814 State student financial aid program—Theology student denied aid. No aid shall be awarded to any student who is pursuing a degree in theology. [1969 ex.s. c 222 § 15. Formerly RCW 28.76.490.]

28B.10.816 State student financial aid program—Application of award. A state financial aid recipient under RCW 28B.10.800 through 28B.10.824 shall apply the award toward the cost of tuition, room, board, books and fees at the institution of higher education attended. [1969 ex.s. c 222 § 16. Formerly RCW 28.76.500.]

28B.10.818 State student financial aid program—Commission to determine how funds disbursed. Funds appropriated for student financial assistance to be granted pursuant to RCW 28B.10.800 through 28B.10.824 shall be disbursed as determined by the commission. [1969 ex.s. c 222 § 17. Formerly RCW 28.76.510.]

28B.10.820 State student financial aid program—Grants, gifts, bequests and devises of property. The commission shall be authorized to accept grants, gifts, bequests, and devises of real and personal property from any source for the purpose of granting financial aid in addition to that funded by the state. [1969 ex.s. c 222 § 18. Formerly RCW 28.76.520.]

28B.10.821 State educational grant account—Deposits—Use. The state educational grant account is hereby established in the state treasury. The commission shall deposit refunds and recoveries of student financial aid funds expended in prior biennia in such account. Expenditures from such account shall be for financial aid to needy or disadvantaged students. [1991 sp.s. c 13 § 12; 1985 c 57 § 10; 1981 c 55 § 1.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

28B.10.822 State student financial aid program—Commission rules and regulations. The commission shall adopt rules and regulations as may be necessary or appropriate for effecting the provisions of RCW 28B.10.800 through 28B.10.824, and not in conflict with RCW 28B.10.800 through 28B.10.824, in accordance with the provisions of chapter 34.05 RCW, the state higher education administrative procedure act. [1973 c 62 § 4; 1969 ex.s. c 222 § 19. Formerly RCW 28.76.530.]

Savings—Severability—1973 c 62: See notes following RCW 28B.10.510.

28B.10.824 State student financial aid program—Commission, executive director, employees—Appointment—Salaries. Subject to the provisions of chapter 28B.16 RCW, the state higher education personnel law, the commission shall appoint an executive director as chief administrator of the commission, and such employees

as it deems advisable, and shall fix their compensation and prescribe their duties. [1973 c 62 § 5; 1969 ex.s. c 222 § 20. Formerly RCW 28.76.540.]

Savings—Severability—1973 c 62: See notes following RCW 28B.10.510.

28B.10.825 Institutional student loan fund for needy students. The board of trustees or regents of each of the state's colleges or universities may allocate from services and activities fees an amount not to exceed one dollar per quarter or one dollar and fifty cents per semester to an institutional student loan fund for needy students, to be administered by such rules or regulations as the board of trustees or regents may adopt: PROVIDED, That loans from such funds shall not be made for terms exceeding twelve months, and the true annual rate of interest charged shall be six percent. [1971 ex.s. c 279 § 4.]

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

Colleges and universities defined: RCW 28B.15.005.

28B.10.840 Definitions for purposes of RCW 28B.10.840 through 28B.10.844. The term "institution of higher education" whenever used in RCW 28B.10.840 through 28B.10.844, shall be held and construed to mean any public institution of higher education in Washington. The term "educational board" whenever used in RCW 28B.10.840 through 28B.10.844, shall be held and construed to mean the *state board for community college education and the higher education coordinating board. [1985 c 370 § 57; 1975 1st ex.s. c 132 § 17; 1972 ex.s. c 23 § 1.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Effective date—Severability—1975 1st ex.s. c 132: See notes following RCW 28B.80.200.

28B.10.842 Actions against regents, trustees, officers, employees, or agents of institutions of higher education or educational boards—Defense—Costs—Payment of obligations from fund. Whenever any action, claim, or proceeding is instituted against any regent, trustee, officer, employee, or agent of an institution of higher education or member of the governing body, officer, employee, or agent of an educational board arising out of the performance or failure of performance of duties for, or employment with such institution or educational board, the board of regents or board of trustees of the institution or governing body of the educational board may grant a request by such person that the attorney general be authorized to defend said claim, suit, or proceeding, and the costs of defense of such action shall be paid from the appropriation made for the support of the institution or educational board to which said person is attached. If a majority of the members of a board of regents or trustees or educational board is or would be personally affected by such findings and determination, or is otherwise unable to reach any decision on the matter, the attorney general is authorized to grant a request. When a request for defense has been authorized, then any obligation for payment arising from

such action, claim, or proceedings shall be paid from the tort claims revolving fund, notwithstanding the nature of the claim, pursuant to the provisions of RCW 4.92.130 through *4.92.170, as now or hereafter amended: PROVIDED, That this section shall not apply unless the authorizing body has made a finding and determination by resolution that such regent, trustee, member of the educational board, officer, employee, or agent was acting in good faith. [1975 c 40 § 4; 1972 ex.s. c 23 § 2.]

***Reviser's note:** RCW 4.92.140 and 4.92.170 were repealed by 1989 c 419 § 18, effective July 1, 1989.

Liability coverage of university personnel and students: RCW 28B.20.250 through 28B.20.255.

28B.10.844 Regents, trustees, officers, employees or agents of institutions of higher education or educational boards, insurance to protect and hold personally harmless. The board of regents and the board of trustees of each of the state's institutions of higher education and governing body of an educational board are authorized to purchase insurance to protect and hold personally harmless any regent, trustee, officer, employee or agent of their respective institution, any member of an educational board, its officers, employees or agents, from any action, claim or proceeding instituted against him arising out of the performance or failure of performance of duties for or employment with such institution or educational board and to hold him harmless from any expenses connected with the defense, settlement or monetary judgments from such actions. [1972 ex.s. c 23 § 3.]

Liability coverage of university personnel and students: RCW 28B.20.250 through 28B.20.255.

28B.10.850 Capital improvements, bonds for—Authorized—Form, terms, conditions, sale, signatures. For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing and equipping of state buildings and facilities for the institutions of higher education, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of thirty million two hundred thousand dollars or so much thereof as shall be required to finance the capital projects relating to the institutions of higher education as set forth in the capital appropriations act, chapter 114, Laws of 1973 1st ex. sess., to be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the Constitution of the state of Washington.

The state finance committee is authorized to prescribe the form of such bonds, and the time of sale of all or any portion or portions of such bonds, and the conditions of sale and issuance thereof.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds. [1985 ex.s. c 4 § 13; 1973 1st ex.s. c 135 § 1.]

Severability—1985 ex.s. c 4: See RCW 43.99G.900.

Severability—1973 1st ex.s. c 135: "If any provision of this 1973 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 1st ex.s. c 135 § 7.]

28B.10.851 Capital improvements, bonds for—Account created, purpose. The proceeds from the sale of the bonds authorized herein, together with all grants, donations, transferred funds and all other moneys which the state finance committee may direct the state treasurer to deposit therein shall be deposited in the state higher education construction account hereby created in the state treasury. [1991 sp.s. c 13 § 45; 1985 c 57 § 11; 1973 1st ex.s. c 135 § 2.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

Severability—1973 1st ex.s. c 135: See note following RCW 28B.10.850.

28B.10.852 Capital improvements, bonds for—Bond anticipation notes, purpose. At the time the state finance committee determines to issue such bonds or a portion thereof, it may, pending the issuing of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of such bonds that may be required for such purpose shall be applied to the payment of the principal of and interest on such anticipation notes which have been issued. The proceeds from the sale of bonds or notes authorized by RCW 28B.10.850 through 28B.10.855 shall be deposited in the state higher education construction account in the state treasury and shall be used exclusively for the purposes specified in RCW 28B.10.850 through 28B.10.855 and for the payment of expenses incurred in the issuance and sale of the bonds. [1985 c 57 § 12; 1973 1st ex.s. c 135 § 3.]

Effective date—1985 c 57: See note following RCW 18.04.105.

Severability—1973 1st ex.s. c 135: See note following RCW 28B.10.850.

28B.10.853 Capital improvements, bonds for—Bond redemption fund created, purpose—Compelling transfer of funds to. The state higher education bond redemption fund of 1973 is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by RCW 28B.10.850 through 28B.10.855. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet bond retirement and interest requirements, and on July 1st of each year the state treasurer shall deposit such amount in the state higher education bond redemption fund of 1973 from any general state revenues received in the state treasury and certified by the state treasurer to be general state revenues.

The owner and holder of each of the bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require and compel the transfer and payment of funds as directed herein. [1973 1st ex.s. c 135 § 4.]

Severability—1973 1st ex.s. c 135: See note following RCW 28B.10.850.

28B.10.854 Capital improvements, bonds for—Legislature may provide additional means of revenue. The legislature may provide additional means for raising moneys for the payment of the interest and principal of the bonds authorized herein and RCW 28B.10.850 through 28B.10.855 shall not be deemed to provide an exclusive method for such payment. [1973 1st ex.s. c 135 § 5.]

Severability—1973 1st ex.s. c 135: See note following RCW 28B.10.850.

28B.10.855 Capital improvements, bonds for—As legal investment for state and municipal funds. The bonds herein authorized shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1973 1st ex.s. c 135 § 6.]

Severability—1973 1st ex.s. c 135: See note following RCW 28B.10.850.

28B.10.859 Distinguished professorship trust fund program—"Private donation" defined. For the purposes of RCW 28B.10.866 through 28B.10.873, "private donation" includes assessments by commodity commissions authorized to conduct research activities including but not limited to research studies authorized under RCW 15.66.030 and 15.65.040. [1989 c 187 § 1.]

28B.10.863 Distinguished professorship program—Solicitation and receipt of gifts—Investment of endowed funds—Report to the legislature.

Reviser's note: RCW 28B.10.863 was both amended and repealed during the 1987 legislative session, each without reference to the other. It has been decodified for publication purposes pursuant to RCW 1.12.025.

28B.10.866 Distinguished professorship trust fund program—Intent. The legislature recognizes that quality in the state's public four-year institutions of higher education would be strengthened by additional partnerships between citizens and the institutions. The legislature intends to foster these partnerships by creating a matching grant program to assist public four-year institutions of higher education in creating endowments for funding distinguished professorships. [1987 c 8 § 1.]

Allocation of appropriated moneys—1988 c 125; 1987 c 8: "(1) For the biennium ending June 30, 1989, all appropriations to the Washington distinguished professorship trust fund shall be allocated as provided in this section. The state treasurer shall reserve the following amounts in the trust fund for distribution to four-year higher education institutions at such time as qualifying gifts as defined in section 1, chapter 8, Laws of 1987 for distinguished professorships have been deposited:

(a) Two million two hundred fifty thousand dollars of the appropriation for the University of Washington;

(b) One million five hundred thousand dollars of the appropriation for Washington State University;

(c) One million dollars of the appropriation divided among Eastern Washington University, Central Washington University, Western Washington University, and The Evergreen State College.

(2) Distribution of funds allocated in subsection (1)(c) of this section shall be made in the following manner: Eastern Washington University, Central Washington University, Western Washington University, and The Evergreen State College are guaranteed one professorship.

(3) As of January 1, 1989, if any funds reserved in subsection (1) (a) or (b) of this section have not been designated as matching funds for

qualifying gifts, any four-year institution of higher education, which has already fully utilized the professorships allocated to it by this section, and, in the case of the regional universities and The Evergreen State College, has exhausted the allocation in subsection (1)(c) of this section, may be eligible for such funds under rules promulgated by the higher education coordinating board." [1988 c 125 § 4; 1987 c 8 § 12.]

28B.10.867 Distinguished professorship trust fund program—Establishment—Administration. The Washington distinguished professorship trust fund program is established.

The program shall be administered by the higher education coordinating board.

The trust fund shall be administered by the state treasurer. [1987 c 8 § 2.]

28B.10.868 Distinguished professorship trust fund program—Trust fund established. Funds appropriated by the legislature for the distinguished professorship program shall be deposited in the distinguished professorship trust fund. At the request of the higher education coordinating board under RCW 28B.10.870, the treasurer shall release the state matching funds to the designated institution's local endowment fund. No appropriation is required for expenditures from the fund. [1991 sp.s. c 13 § 99; 1987 c 8 § 3.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

28B.10.869 Distinguished professorship trust fund program—Guidelines—Allocation system. In consultation with the eligible institutions of higher education, the higher education coordinating board shall set guidelines for the program. These guidelines may include an allocation system based on factors which include but are not limited to: The amount of money available in the trust fund; characteristics of the institutions including the size of the faculty and student body; and the number of professorships previously received.

Any allocation system shall be superseded by conditions in any act of the legislature appropriating funds for this program. [1987 c 8 § 4.]

28B.10.870 Distinguished professorship trust fund program—Matching funds—Donations or appropriations—Disbursement of funds. All state four-year institutions of higher education shall be eligible for matching trust funds. An institution may apply to the higher education coordinating board for two hundred fifty thousand dollars from the fund when the institution can match the state funds with an equal amount of pledged or contributed private donations or with funds received through legislative appropriation specifically for the G. Robert Ross distinguished faculty award and designated as being qualified to be matched from trust fund moneys. These donations shall be made specifically to the professorship program, and shall be donated after July 1, 1985.

Upon an application by an institution, the board may designate two hundred fifty thousand dollars from the trust fund for that institution's pledged professorship. If the pledged two hundred fifty thousand dollars is not received within three years, the board shall make the designated funds available for another pledged professorship.

Once the private donation is received by the institution, the higher education coordinating board shall ask the state treasurer to release the state matching funds to a local endowment fund established by the institution for the professorship. [1988 c 125 § 3; 1987 c 8 § 5.]

Severability—1988 c 125: See RCW 28B.106.902.

28B.10.871 Distinguished professorship trust fund program—Name of professorship—Duties of institution—Use of endowment proceeds. The professorship is the property of the institution and may be named in honor of a donor, benefactor, or honoree of the institution, at the option of the institution. Once state matching funds are released to a local endowment fund, an institution may combine two professorships to support one professorship holder.

The institution is responsible for soliciting private donations, investing and maintaining all endowment funds, administering the professorship, and reporting on the program to the governor and the legislature upon request. The institution may augment the endowment fund with additional private donations. The principal of the invested endowment fund shall not be invaded.

The proceeds from the endowment fund may be used to supplement the salary of the holder of the professorship, to pay salaries for his or her assistants, and to pay expenses associated with the holder's scholarly work. [1989 c 187 § 2; 1987 c 8 § 6.]

28B.10.872 Distinguished professorship trust fund program—Moneys not subject to collective bargaining. Any private or public money, including all investment income, deposited in the Washington distinguished professorship trust fund or any local endowment for professorship programs shall not be subject to collective bargaining. [1987 c 8 § 7.]

28B.10.873 Distinguished professorship trust fund program—Continuation of program established under prior law. A distinguished professorship program established under chapter 343, Laws of 1985 shall continue to operate under RCW 28B.10.866 through 28B.10.872 and the requirements of RCW 28B.10.866 through 28B.10.872 shall apply. [1987 c 8 § 8.]

28B.10.874 Distinguished professorship trust fund program—Transfer of administration—Recommendations to governor and legislature. (1) After consulting with the higher education coordinating board and the state four-year institutions of higher education, the governor may transfer the administration of this program to another agency which has an appropriate educationally related mission.

(2) By December 1, 1989, the higher education coordinating board and any agency administering this program, if applicable, shall make recommendations to the governor and the legislature on any needed changes in the program. [1987 c 8 § 9.]

28B.10.878 G. Robert Ross distinguished faculty award. The G. Robert Ross distinguished faculty award is

hereby established. The board of trustees at Western Washington University shall establish the guidelines for the selection of the recipients of the G. Robert Ross distinguished faculty award. The board shall establish a local endowment fund for the deposit of all state funds appropriated for this purpose and any private donations. The board shall administer the endowment fund and the award. The principal of the invested endowment fund shall not be invaded and the proceeds from the endowment fund may be used to supplement the salary of the holder of the award, to pay salaries of his or her assistants, and to pay expenses associated with the holder's scholarly work. [1988 c 125 § 2.]

Finding—1988 c 125 § 2: "The legislature finds that G. Robert Ross, immediate past president of Western Washington University, was an exemplary university president who helped lead his school to a position of increasing excellence and national prominence. Dr. Ross was a convincing spokesperson for excellence in all areas of education and was a leader who strongly encouraged the faculty and staff at Western Washington University to be actively involved in the pursuit of scholarly activities.

The legislature wishes to honor the public spirit, dedication, integrity, perseverance, inspiration, and accomplishments of Western Washington University faculty through the creation of the G. Robert Ross Distinguished Faculty Award." [1988 c 125 § 1.]

Severability—1988 c 125: See RCW 28B.106.902.

28B.10.880 Graduate fellowship trust fund program—Intent. The legislature recognizes that quality in the state's public four-year institutions of higher education would be strengthened by additional partnerships between citizens and the institutions. The legislature intends to foster these partnerships by creating a matching grant program to assist public four-year institutions of higher education in creating endowments for funding fellowships for distinguished graduate students. [1987 c 147 § 1.]

28B.10.881 Graduate fellowship trust fund program—Establishment—Administration. The Washington graduate fellowship trust fund program is established. The program shall be administered by the higher education coordinating board. The trust fund shall be administered by the state treasurer. [1987 c 147 § 2.]

28B.10.882 Graduate fellowship trust fund—Matching funds. Funds appropriated by the legislature for the graduate fellowship program shall be deposited in the graduate fellowship trust fund. At the request of the higher education coordinating board under RCW 28B.10.884, the treasurer shall release the state matching funds to the designated institution's local endowment fund. No appropriation is required for expenditures from the fund. [1991 sp.s. c 13 § 88; 1987 c 147 § 3.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

28B.10.883 Graduate fellowship trust fund program—Guidelines—Allocation system. In consultation with eligible institutions of higher education, the higher education coordinating board shall set guidelines for the program. These guidelines may include an allocation system based on factors which include but are not limited to: The amount of money available in the trust fund; characteristics of the institutions including the size of the faculty and

student body; and the number of fellowships previously received.

Any allocation system shall be superseded by conditions in any legislative act appropriating funds for the program. [1987 c 147 § 4.]

28B.10.884 Graduate fellowship trust fund program—Matching funds—Donations—Disbursement of funds. (1) All state four-year institutions of higher education shall be eligible for matching trust funds. Institutions may apply to the higher education coordinating board for twenty-five thousand dollars from the fund when they can match the state funds with equal pledged or contributed private donations. These donations shall be made specifically to the graduate fellowship program, and shall be donated after July 1, 1987.

(2) Upon an application by an institution, the board may designate twenty-five thousand dollars from the trust fund for that institution's pledged graduate fellowship fund. If the pledged twenty-five thousand dollars is not received within two years, the board shall make the designated funds available for another pledged graduate fellowship fund.

(3) Once the private donation is received by the institution, the higher education coordinating board shall ask the state treasurer to release the state matching funds to a local endowment fund established by the institution for the graduate fellowships. [1987 c 147 § 5.]

28B.10.885 Graduate fellowship trust fund program—Name of fellowship—Duties of institution—Use of endowment proceeds. (1) The fellowship is the property of the institution and may be named in honor of a donor, benefactor, or honoree of the institution, at the option of the institution.

(2) The institution is responsible for soliciting private donations, investing and maintaining all endowment funds, administering the fellowship, and reporting on the program to the governor and the legislature upon request. The institution may augment the endowment fund with additional private donations. The principal of the invested endowment fund shall not be invaded.

(3) The proceeds from the endowment fund may be used to provide fellowship stipends to be used by the recipient for such things as tuition and fees, subsistence, research expenses, and other educationally related costs. [1987 c 147 § 6.]

28B.10.886 Graduate fellowship trust fund program—Moneys not subject to collective bargaining. Any private or public money, including all investment income, deposited in the Washington graduate fellowship trust fund or any local endowment for fellowship programs shall not be subject to collective bargaining. [1987 c 147 § 7.]

28B.10.887 Graduate fellowship trust fund program—Transfer of administration—Recommendations to governor and legislature. (1) After consulting with the higher education coordinating board and the state four-year institutions of higher education, the governor may transfer the administration of this program to another agency which has an appropriate educationally related mission.

(2) By December 1, 1989, the higher education coordinating board and any agency administering this program, if applicable, shall make recommendations to the governor and the legislature on any needed changes in the program. [1987 c 147 § 8.]

Chapter 28B.12

COLLEGE WORK-STUDY PROGRAM

Sections

28B.12.010	Created.
28B.12.020	Purpose.
28B.12.030	Definitions.
28B.12.040	Board to develop and administer program—Agreements authorized, limitation.
28B.12.050	Disbursal of college work-study funds—Criteria.
28B.12.060	Rules and regulations—Mandatory provisions.
28B.12.070	Annual report of institutions to higher education coordinating board.

28B.12.010 Created. There is hereby created a program of financial aid to students pursuing a post-secondary education which shall be known as the college work-study program. [1974 ex.s. c 177 § 1.]

Severability—1974 ex.s. c 177: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 177 § 10.]

28B.12.020 Purpose. The purpose of the program created in RCW 28B.12.010 is to provide financial assistance to needy students attending eligible post-secondary institutions in the state of Washington by stimulating and promoting their employment, thereby enabling them to pursue courses of study at such institutions. An additional purpose of this program shall be to provide such needy students, wherever possible, with employment related to their academic pursuits. [1974 ex.s. c 177 § 2.]

Severability—1974 ex.s. c 177: See note following RCW 28B.12.010.

28B.12.030 Definitions. As used in this chapter, the following words and terms shall have the following meanings, unless the context shall clearly indicate another or different meaning or intent:

(1) The term "needy student" shall mean a student enrolled or accepted for enrollment at a post-secondary institution who, according to a system of need analysis approved by the commission on higher education, demonstrates a financial inability, either parental, familial, or personal, to bear the total cost of education for any semester or quarter.

(2) The term "eligible institution" shall mean any post-secondary institution in this state accredited by the Northwest Association of Secondary and Higher Schools or any public vocational-technical school in the state. [1974 ex.s. c 177 § 3.]

Severability—1974 ex.s. c 177: See note following RCW 28B.12.010.

28B.12.040 Board to develop and administer program—Agreements authorized, limitation. The higher

education coordinating board shall develop and administer the college work-study program and shall be authorized to enter into agreements with employers and eligible institutions for the operation of the program. These agreements shall include such provisions as the higher education coordinating board may deem necessary or appropriate to carry out the purposes of this chapter.

The share from funds disbursed under the college work-study program of the compensation of students employed under such program in accordance with such agreements shall not exceed eighty percent of the total such compensation paid such students. [1985 c 370 § 58; 1974 ex.s. c 177 § 4.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability—1974 ex.s. c 177: See note following RCW 28B.12.010.

Purpose—1974 ex.s. c 177: See RCW 28B.12.020.

28B.12.050 Disbursal of college work-study funds—Criteria. The higher education coordinating board shall disburse college work-study funds. In performing its duties under this section, the board shall consult eligible institutions and post-secondary education advisory and governing bodies. The board shall establish criteria designed to achieve such distribution of assistance under this chapter among students attending eligible institutions as will most effectively carry out the purposes of this chapter. [1987 c 330 § 201; 1985 c 370 § 59; 1974 ex.s. c 177 § 5.]

Construction—Application of rules—1987 c 330: "This act shall not be construed as affecting any existing right acquired or liability or obligation incurred under the sections amended or repealed in this act or under any rule, regulation, or order adopted under those sections, nor as affecting any proceeding instituted under those sections. The rules of the agencies abolished by this act shall continue in force until acted upon by the succeeding agency and shall be enforced by the succeeding agency. If there is no succeeding agency, the rules shall terminate." [1987 c 330 § 1401.]

Severability—1987 c 330: "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." [1987 c 330 § 1402.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability—1974 ex.s. c 177: See note following RCW 28B.12.010.

28B.12.060 Rules and regulations—Mandatory provisions. The higher education coordinating board shall adopt rules and regulations as may be necessary or appropriate for effecting the provisions of this chapter, and not in conflict with this chapter, in accordance with the provisions of chapter 34.05 RCW, the state higher education administrative procedure act. Such rules and regulations shall include provisions designed to make employment under such work-study program reasonably available, to the extent of available funds, to all eligible students in eligible post-secondary institutions in need thereof. Such rules and regulations shall include:

- (1) Providing work under the college work-study program which will not result in the displacement of employed workers or impair existing contracts for services.
- (2) Furnishing work only to a student who:

(a) Is capable, in the opinion of the eligible institution, of maintaining good standing in such course of study while employed under the program covered by the agreement; and

(b) Has been accepted for enrollment as at least a half-time student at the eligible institution or, in the case of a student already enrolled in and attending the eligible institution, is in good standing and in at least half-time attendance there either as an undergraduate, graduate or professional student; and

(c) Is not pursuing a degree in theology.

(3) Placing priority on the securing of work opportunities for students who are residents of the state of Washington as defined in RCW 28B.15.011 through 28B.15.014.

(4) Provisions to assure that in the state institutions of higher education utilization of this student work-study program:

(a) Shall only supplement and not supplant classified positions under jurisdiction of chapter 28B.16 RCW;

(b) That all positions established which are comparable shall be identified to a job classification under the higher education personnel board's classification plan and shall receive equal compensation;

(c) Shall not take place in any manner that would replace classified positions reduced due to lack of funds or work; and

(d) That work study positions shall only be established at entry level positions of the classified service. [1987 c 330 § 202; 1985 c 370 § 60; 1974 ex.s. c 177 § 6.]

Construction—Application of rules—Severability—1987 c 330: See notes following RCW 28B.12.050.

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability—1974 ex.s. c 177: See note following RCW 28B.12.010.

28B.12.070 Annual report of institutions to higher education coordinating board. Each eligible institution shall submit to the higher education coordinating board an annual report in accordance with such requirements as are promulgated by the commission. [1985 c 370 § 61; 1974 ex.s. c 177 § 7.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability—1974 ex.s. c 177: See note following RCW 28B.12.010.

Chapter 28B.13

1974 BOND ISSUE FOR CAPITAL IMPROVEMENTS FOR INSTITUTIONS OF HIGHER EDUCATION

Sections

- 28B.13.010 Bonds authorized—Amount—Purpose—Form, conditions of sale, etc.
- 28B.13.020 Disposition of proceeds from sale of bonds.
- 28B.13.030 Bond anticipation notes—Authorized—Payment of principal and interest on—Disposition of proceeds from sale of bonds and notes.
- 28B.13.040 Bond redemption fund—Created—Use—Rights of bond owner and holder.
- 28B.13.050 Chapter not exclusive method for payment of interest and principal on bonds.
- 28B.13.060 Bonds as legal investment for public funds.

28B.13.900 Severability—1974 ex.s. c 181.

State finance committee: Chapter 43.33 RCW.

28B.13.010 Bonds authorized—Amount—Purpose—Form, conditions of sale, etc. For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing and equipping of state buildings and facilities for the institutions of higher education, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of seven million eight hundred one thousand eighty dollars or so much thereof as shall be required to finance the capital project relating to institutions of higher education as set forth in the capital appropriations act, chapter 197 (SSB 3253), Laws of 1974 ex. sess., to be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the Constitution of the state of Washington.

The state finance committee is authorized to prescribe the form of such bonds, and the time of sale of all or any portion or portions of such bonds, and the conditions of sale and issuance thereof.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds. [1974 ex.s. c 181 § 1.]

28B.13.020 Disposition of proceeds from sale of bonds. The proceeds from the sale of the bonds authorized by this chapter, together with all grants, donations, transferred funds and all other moneys which the state finance committee may direct the state treasurer to deposit therein shall be deposited in the state higher education construction account in the state general fund. [1974 ex.s. c 181 § 2.]

28B.13.030 Bond anticipation notes—Authorized—Payment of principal and interest on—Disposition of proceeds from sale of bonds and notes. At the time the state finance committee determines to issue such bonds or a portion thereof, it may, pending the issuing of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of such bonds that may be required for such purpose shall be applied to the payment of the principal of and interest on such anticipation notes which have been issued. The proceeds from the sale of bonds or notes authorized by this chapter shall be deposited in the state higher education construction account of the general fund in the state treasury and shall be used exclusively for the purposes specified in this chapter and for the payment of expenses incurred in the issuance and sale of the bonds. [1974 ex.s. c 181 § 3.]

28B.13.040 Bond redemption fund—Created—Use—Rights of bond owner and holder. The state higher education bond redemption fund of 1974 is hereby created

in the state treasury, which fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by this chapter. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet bond retirement and interest requirements, and on July 1st of each year the state treasurer shall deposit such amount in the state higher education bond redemption fund of 1974 from any general state revenues received in the state treasury and certified by the state treasurer to be general state revenues.

The owner and holder of each of the bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require and compel the transfer and payment of funds as directed therein. [1974 ex.s. c 181 § 4.]

28B.13.050 Chapter not exclusive method for payment of interest and principal on bonds. The legislature may provide additional means for raising moneys for the payment of the interest and principal of the bonds authorized herein and this chapter shall not be deemed to provide an exclusive method for such payment. [1974 ex.s. c 181 § 5.]

28B.13.060 Bonds as legal investment for public funds. The bonds authorized by this chapter shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1974 ex.s. c 181 § 6.]

28B.13.900 Severability—1974 ex.s. c 181. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected. [1974 ex.s. c 181 § 7.]

Chapter 28B.14

1975 BOND ISSUE FOR CAPITAL IMPROVEMENTS FOR INSTITUTIONS OF HIGHER EDUCATION

Sections

- 28B.14.010 Bonds authorized—Amount—Consideration for minority contractors on projects so funded.
- 28B.14.020 Bond anticipation notes—Authorized—Payment.
- 28B.14.030 Form, terms, conditions, sale and covenants of bonds and notes.
- 28B.14.040 Disposition of proceeds from sale of bonds and notes—Use.
- 28B.14.050 1975 state higher education bond retirement fund—Created—Purpose.
- 28B.14.060 Bonds as legal investment for public funds.

28B.14.010 Bonds authorized—Amount—Consideration for minority contractors on projects so funded. For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing and equipping of state buildings and facilities for the institutions of higher education, the state finance committee is hereby authorized to issue from time to time general obligation bonds of the state of Washington in the aggregate principal amount of fourteen million eight hundred eighty thousand dollars, or so much thereof as shall be required to finance the capital projects relating to institu-

tions of higher education as determined by the legislature in its capital appropriations acts from time to time, for such purposes, to be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1, of the Constitution of the state of Washington. It is the intent of the legislature that in any decision to contract for capital projects funded as the result of this chapter, full and fair consideration shall be given to minority contractors. [1975-'76 2nd ex.s. c 126 § 1; 1975 1st ex.s. c 237 § 1.]

Severability—1975 1st ex.s. c 237: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances, shall in no way be affected." [1975 1st ex.s. c 237 § 8.]

28B.14.020 Bond anticipation notes—Authorized—Payment. When the state finance committee has determined to issue such general obligation bonds or a portion thereof as authorized in RCW 28B.14.010, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of such bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for the payment of principal and redemption premium, if any, of and interest on such notes shall be applied thereto when such bonds are issued. [1975 1st ex.s. c 237 § 2.]

Severability—1975 1st ex.s. c 237: See note following RCW 28B.14.010.

28B.14.030 Form, terms, conditions, sale and covenants of bonds and notes. The state finance committee is authorized to prescribe the form, terms, conditions and covenants of the bonds and/or the bond anticipation notes provided for in RCW 28B.14.010 and 28B.14.020, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each such bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and interest thereon when due. [1975 1st ex.s. c 237 § 3.]

Severability—1975 1st ex.s. c 237: See note following RCW 28B.14.010.

28B.14.040 Disposition of proceeds from sale of bonds and notes—Use. Except for that portion of the proceeds required to pay bond anticipation notes pursuant to RCW 28B.14.020, the proceeds from the sale of the bonds and/or bond anticipation notes authorized in this chapter, together with all grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to deposit therein, shall be deposited in the state higher education construction account of the general fund in the state treasury. All such proceeds shall be used exclusively for the purposes specified in this chapter and for the payment of the expenses incurred in connection with the sale and issuance of such bonds and bond anticipation notes. [1975 1st ex.s. c 237 § 4.]

Severability—1975 1st ex.s. c 237: See note following RCW 28B.14.010.

28B.14.050 1975 state higher education bond retirement fund—Created—Purpose. The 1975 state higher education bond retirement fund is hereby created in

the state treasury for the purpose of the payment of principal of and interest on the bonds authorized to be issued pursuant to this chapter.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on such bonds. On July 1st of each such year the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1975 state higher education bond retirement fund an amount equal to the amount certified by the state finance committee. [1975 1st ex.s. c 237 § 5.]

Severability—1975 1st ex.s. c 237: See note following RCW 28B.14.010.

28B.14.060 Bonds as legal investment for public funds. The bonds authorized in this chapter shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1975 1st ex.s. c 237 § 6.]

Severability—1975 1st ex.s. c 237: See note following RCW 28B.14.010.

Chapter 28B.14B

1977 BOND ISSUE FOR CAPITAL IMPROVEMENTS FOR INSTITUTIONS OF HIGHER EDUCATION

Sections

28B.14B.010 Bonds authorized—Amount—Conditions.

28B.14B.020 Bond anticipation notes—Authorized—Payment.

28B.14B.030 Form, terms, conditions, sale and covenants of bonds and notes.

28B.14B.040 Disposition of proceeds from sale of bonds and notes—Use.

28B.14B.050 State higher education bond retirement fund of 1977—Created—Purpose.

28B.14B.060 Bonds as legal investment for public funds.

28B.14B.010 Bonds authorized—Amount—Conditions. For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing and equipping of state buildings and facilities for the institutions of higher education, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of nine million five hundred thousand dollars, or so much thereof as may be required to finance such projects, and all costs incidental thereto. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution. [1977 ex.s. c 345 § 1.]

Severability—1977 ex.s. c 345: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 345 § 8.]

28B.14B.020 Bond anticipation notes—Authorized—Payment. When the state finance committee has determined to issue such general obligation bonds or a portion thereof as authorized in RCW 28B.14B.010, it may,

pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of such bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for the payment of principal of and redemption premium, if any, and interest on such notes shall be applied thereto when such bonds are issued. [1977 ex.s. c 345 § 2.]

Severability—1977 ex.s. c 345: See note following RCW 28B.14B.010.

28B.14B.030 Form, terms, conditions, sale and covenants of bonds and notes. The state finance committee is authorized to prescribe the form, terms, conditions and covenants of the bonds and/or the bond anticipation notes provided for in RCW 28B.14B.010 and 28B.14B.020, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each such bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and interest thereon when due. [1977 ex.s. c 345 § 3.]

Severability—1977 ex.s. c 345: See note following RCW 28B.14B.010.

28B.14B.040 Disposition of proceeds from sale of bonds and notes—Use. Except for that portion of the proceeds required to pay bond anticipation notes pursuant to RCW 28B.14B.020, the proceeds from the sale of the bonds and/or bond anticipation notes authorized in this chapter, together with all grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to deposit therein, shall be deposited in the state higher education construction account of the general fund in the state treasury. All such proceeds shall be used exclusively for the purposes specified in this chapter and for the payment of the expenses incurred in connection with the sale and issuance of such bonds and bond anticipation notes. [1977 ex.s. c 345 § 4.]

Severability—1977 ex.s. c 345: See note following RCW 28B.14B.010.

28B.14B.050 State higher education bond retirement fund of 1977—Created—Purpose. The state higher education bond retirement fund of 1977 is hereby created in the state treasury for the purpose of the payment of principal of and interest on the bonds authorized to be issued pursuant to this chapter or, if the legislature so determines, for any bonds and notes hereafter authorized and issued for the institutions of higher education.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on such bonds. Not less than thirty days prior to the date on which any such interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state higher education bond retirement fund of 1977 an amount equal to the amount certified by the state finance

committee to be due on such payment date. [1977 ex.s. c 345 § 5.]

Severability—1977 ex.s. c 345: See note following RCW 28B.14B.010.

28B.14B.060 Bonds as legal investment for public funds. The bonds authorized in RCW 28B.14B.010 through 28B.14B.060 shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1977 ex.s. c 345 § 6.]

Severability—1977 ex.s. c 345: See note following RCW 28B.14B.010.

Chapter 28B.14C

1977 BOND ACT FOR THE REFUNDING OF OUTSTANDING LIMITED OBLIGATION REVENUE BONDS OF INSTITUTIONS OF HIGHER EDUCATION

Sections

28B.14C.010 Purpose—Bonds authorized—Amount.

28B.14C.020 Refunding as benefit to state.

28B.14C.030 Constitutional and statutory authority applicable—Specific state finance committee powers.

28B.14C.040 Limitation as to amount of bonds to be issued—Pledge of state's credit.

28B.14C.050 Disposition of proceeds of refunding issues.

28B.14C.060 Institutions of higher education refunding bond retirement fund of 1977—Created—Use.

28B.14C.070 Chapter not exclusive method for payment of interest and principal on bonds.

28B.14C.080 Chapter as affecting University of Washington building revenue bond redemption.

28B.14C.090 Chapter as affecting Washington State University building revenue bond redemption.

28B.14C.100 Chapter as affecting Western Washington State College building and normal school fund revenue bonds.

28B.14C.110 Chapter as affecting Eastern Washington State College building and normal school fund revenue bonds.

28B.14C.120 Chapter as affecting Central Washington State College building and normal school fund revenue bonds.

28B.14C.130 Chapter as affecting Evergreen State College building revenue bonds.

28B.14C.140 Use limited when reserves transferred to state general fund.

28B.14C.900 Severability—1977 ex.s. c 354.

28B.14C.010 Purpose—Bonds authorized—Amount.

The state finance committee is hereby authorized to issue from time to time on behalf of the state, general obligation bonds of the state in the amount of forty-eight million six hundred thousand dollars, or so much thereof as may be required to refund at or prior to maturity, all or some or any part of the various issues of outstanding limited obligation revenue bonds identified below, issued by various of the institutions of higher education, similarly identified:

(1) University of Washington building revenue bonds, all series, aggregating \$28,850,000 in original principal amount;

(2) Washington State University building revenue bonds and building and scientific fund revenue bonds, all series, aggregating \$19,450,000 in original principal amount;

(3) Western Washington State College building and normal school fund revenue bonds, all series, aggregating \$11,620,000 in original principal amount;

(4) Eastern Washington State College building and normal school fund revenue bonds, all series, aggregating \$9,501,000 in original principal amount;

(5) Central Washington State College building and normal school fund revenue bonds, all series, including refunding series, aggregating \$8,925,000 in original principal amount; and

(6) The Evergreen State College building revenue bonds, all series, aggregating \$2,191,125 in original principal amount. [1985 ex.s. c 4 § 14; 1985 c 390 § 2; 1977 ex.s. c 354 § 1.]

Severability—1985 ex.s. c 4: See RCW 43.99G.900.

28B.14C.020 Refunding as benefit to state. The refunding authorized by this chapter is to be carried out primarily for the purpose of releasing for other needs of the state and its agencies the reserves presently required under existing covenants and statutes to secure payment of the various issues of the bonds to be refunded and, as such, is of substantial benefit to the state. [1977 ex.s. c 354 § 2.]

28B.14C.030 Constitutional and statutory authority applicable—Specific state finance committee powers. Subject to the specific requirements of RCW 28B.14C.010 through 28B.14C.140 and 28B.14C.900, such general obligation refunding bonds shall be issued and the refunding plan carried out in accordance with Article VIII, section 1, of the state Constitution, in accordance with chapter 39.42 RCW as presently in effect, and in accordance with the following sections of chapter 39.53 RCW as presently in effect, where applicable: RCW 39.53.010, 39.53.030, 39.53.060, 39.53.070, 39.53.100, and 39.53.110. The remainder of chapter 39.53 RCW shall not be applicable to the refunding authorized by this chapter.

In addition to the powers granted to the state finance committee in this subsection, said committee is hereby authorized (1) to determine the times and manner of redemption of the various bonds to be refunded, if any are to be redeemed prior to maturity; (2) to carry out all procedures necessary to accomplish the call for redemption and the subsequent redemption of the bonds to be refunded on behalf of the board of regents or the board of trustees, as the case may be, of each of the institutions which originally issued the bonds to be refunded; and (3) to determine the time, manner, and call premium, if any, for redemption of the refunding issue or issues, if any of the bonds of such issue are to be redeemed prior to maturity. [1977 ex.s. c 354 § 3.]

Reviser's note: Phrases "as presently in effect" would, because of declaration of emergency in section 17 of 1977 ex.s. c 354, be deemed as of July 1, 1977.

28B.14C.040 Limitation as to amount of bonds to be issued—Pledge of state's credit. The amount of general obligation refunding bonds issued shall not exceed 1.05 times the amount which, taking into account amounts to be earned from the investment of the proceeds of such issue or issues, is required to pay the principal of, the interest on, premium of, if any, on the revenue bonds to be refunded with the proceeds of the refunding issue or issues.

Each bond issued pursuant to the provisions of this chapter shall contain a pledge of the state's full faith and

credit to the payment of the principal thereof and the interest thereon and the state's unconditional promise to pay said principal and interest as the same shall become due. [1977 ex.s. c 354 § 4.]

28B.14C.050 Disposition of proceeds of refunding issues. The proceeds of the refunding issue or issues shall be invested and applied to the payment of the principal of, interest on and redemption premium, if any, on the bonds to be refunded, at the times and in the manner determined by the state finance committee consistent with the provisions and intent of this chapter. Any investment of such proceeds shall be made only in direct general obligations of the United States of America.

Any proceeds in excess of the amounts required to accomplish the refunding, or any such direct obligation of the United States of America acquired with such excess proceeds, shall be used to pay the fees and costs incurred in the refunding and the balance shall be deposited in the institutions of higher education refunding bond retirement fund of 1977. [1977 ex.s. c 354 § 5.]

28B.14C.060 Institutions of higher education refunding bond retirement fund of 1977—Created—Use. There is hereby created in the state treasury the institutions of higher education refunding bond retirement fund of 1977, which fund shall be devoted to the payment of principal of, interest on and redemption premium, if any, on the bonds authorized to be issued pursuant to this chapter.

The state finance committee shall, on or before June 30 of each year, certify to the state treasurer the amount needed in the next succeeding twelve months to pay the installments of principal of and interest on the refunding bonds coming due in such period. The state treasurer shall, not less than thirty days prior to the due date of each installment, withdraw from any general state revenues received in the state treasury an amount equal to the amount certified by the state finance committee as being required to pay such installment; shall deposit such amount in the institutions of higher education refunding bond retirement fund of 1977; and shall apply in a timely manner the funds so deposited to the payment of the installment due on the bonds. [1991 sp.s. c 13 § 80; 1977 ex.s. c 354 § 6.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

28B.14C.070 Chapter not exclusive method for payment of interest and principal on bonds. The legislature may provide additional means for the payment of the principal of and interest on bonds issued pursuant to this chapter and this chapter shall not be deemed to provide an exclusive method for such payment. [1977 ex.s. c 354 § 7.]

28B.14C.080 Chapter as affecting University of Washington building revenue bond redemption. At such time as ample provision has been made for full payment, when due under the terms thereof or upon redemption prior to maturity, of all the principal of and interest on and redemption premium, if applicable, on all the outstanding University of Washington building revenue bonds payable from the University of Washington bond retirement fund,

which provision has been made in a refunding plan adopted by the state finance committee pursuant to the terms of this chapter utilizing a part of the proceeds and the investment proceeds of the refunding bonds issued pursuant to this chapter, then:

(1) The said University of Washington bonds so refunded shall be deemed not to be "outstanding" or "unpaid" for purposes of RCW 28B.20.720, 28B.20.725, 28B.20.800 or any other statute pertaining to said bonds or any covenant of the University of Washington board of regents pertaining to said bonds;

(2) The board of regents of the University of Washington shall, from moneys thereafter paid into the University of Washington bond retirement fund pursuant to the provisions of chapter 28B.20 RCW, transfer to the state general fund amounts sufficient to pay the principal of and the interest on that portion or series of the refunding bonds necessary to refund the said University of Washington bonds. The state finance committee shall determine all matters pertaining to the said transfer, including the amounts to be transferred and the time and manner of transfer; and

(3) Anything to the contrary contained in chapter 28B.20 RCW notwithstanding, the state treasurer shall immediately transfer to the state general fund all reserves, less any amount required to effect the refunding, which have been accumulated theretofore in the University of Washington bond retirement fund pursuant to covenants in the said University of Washington bonds.

(4) Anything to the contrary contained in RCW 28B.20.725 notwithstanding, the board of regents of the University of Washington is empowered to authorize the transfer from time to time to the University of Washington building account any moneys in the University of Washington bond retirement fund in excess of the amounts determined by the state finance committee to be transferred from such bond retirement fund in accordance with subsection (2) of this section. [1985 c 390 § 3; 1977 ex.s. c 354 § 8.]

28B.14C.090 Chapter as affecting Washington State University building revenue bond redemption. At such time as ample provision has been made for full payment, when due under the terms thereof or upon redemption prior to maturity, of all the principal of and interest on and redemption premium, if applicable, on all the outstanding Washington State University building revenue bonds and building and scientific fund revenue bonds payable from the Washington State University bond retirement fund, which provision has been made in a refunding plan adopted by the state finance committee pursuant to the terms of this chapter utilizing a part of the proceeds and the investment proceeds of the refunding bonds issued pursuant to this chapter, then:

(1) The said Washington State University bonds so refunded shall be deemed not to be "outstanding" or "unpaid" for purposes of RCW 28B.20.720, 28B.30.740, 28B.30.750 or any other statute pertaining to said bonds or any covenant of Washington State University board of regents pertaining to said bonds;

(2) The board of regents of Washington State University shall, from moneys thereafter paid into the Washington State University bond retirement fund pursuant to the provisions of chapter 28B.30 RCW, transfer to the state general fund

amounts sufficient to pay the principal of and the interest on that portion or series of the refunding bonds necessary to refund the said Washington State University bonds. The state finance committee shall determine all matters pertaining to the said transfer, including the amounts to be transferred and the time and manner of transfer; and

(3) Anything to the contrary contained in chapter 28B.30 RCW notwithstanding, the state treasurer shall immediately transfer to the state general fund all reserves, less any amount required to effect the refunding, which have been accumulated theretofore in the Washington State University bond retirement fund pursuant to covenants in the said Washington State University bonds.

(4) Anything to the contrary contained in RCW 28B.30.750 notwithstanding, the board of regents of Washington State University is empowered to authorize the transfer from time to time to the Washington State University building account any moneys in the Washington State University bond retirement fund in excess of the amounts determined by the state finance committee to be transferred from such bond retirement fund in accordance with subsection (2) of this section. [1985 c 390 § 4; 1977 ex.s. c 354 § 9.]

28B.14C.100 Chapter as affecting Western Washington State College building and normal school fund revenue bonds. At such time as ample provision has been made for full payment, when due under the terms thereof or upon redemption prior to maturity, of all the principal of and interest on and redemption premium, if applicable, on all the outstanding Western Washington State College building and normal school fund revenue bonds payable from the Western Washington State College bond retirement fund, which provision has been made in a refunding plan adopted by the state finance committee pursuant to the terms of this chapter utilizing a part of the proceeds and the investment proceeds of the refunding bonds issued pursuant to this chapter, then:

(1) The said Western Washington State College bonds so refunded shall be deemed not to be "outstanding" or "unpaid" for purposes of RCW 28B.40.370, 28B.40.750, or, other than RCW 28B.40.751, any other statute pertaining to said bonds or any covenant of the board of trustees of Western Washington State College pertaining to said bonds;

(2) Anything to the contrary in chapter 28B.40 RCW notwithstanding, all building fees and all normal school fund revenues received by Western Washington State College pursuant to RCW 28B.40.751 shall thenceforth be deposited into the Western Washington State College capital projects account and the board of trustees of said college shall thereafter transfer from said capital projects account to the state general fund, amounts sufficient to pay the principal of and interest on that portion or series of the refunding bonds necessary to refund the said bonds. The state finance committee shall determine all matters pertaining to the said transfer, including the amounts to be transferred and the time and manner of transfer; and

(3) Anything to the contrary contained in chapter 28B.40 RCW notwithstanding, the state treasurer shall immediately transfer to the state general fund all reserves, less any amount required to effect the refunding, which have been accumulated theretofore in the Western Washington

State College bond retirement fund pursuant to covenants in the said Western Washington State College bonds. [1985 c 390 § 5; 1977 ex.s. c 354 § 10.]

Reviser's note: Reference to RCW sections 28B.40.370, 28B.40.750, and 28B.40.751 and to "chapter 28B.40 RCW" relates to such sections and chapter as they were before the effective date (September 21, 1977) of 1977 ex.s. c 169, which renamed Central Washington State College, Eastern Washington State College, and Western Washington State College as Central Washington University, Eastern Washington University, and Western Washington University, respectively, creating three regional universities within the state, and setting forth the specific laws relating to them in chapter 28B.35 RCW, and leaving as chapter 28B.40 RCW the specific laws relating to The Evergreen State College.

"State universities," "regional universities," "state college," "institutions of higher education," and "postsecondary institutions" defined: RCW 28B.10.016.

Western Washington University capital projects account: RCW 28B.35.370.

28B.14C.110 Chapter as affecting Eastern Washington State College building and normal school fund revenue bonds. At such time as ample provision has been made for full payment, when due under the terms thereof or upon redemption prior to maturity, of all the principal of and interest on and redemption premium, if applicable, on all the outstanding Eastern Washington State College building and normal school fund revenue bonds payable from the Eastern Washington State College bond retirement fund, which provision has been made in a refunding plan adopted by the state finance committee pursuant to the terms of this chapter utilizing a part of the proceeds and the investment proceeds of the refunding bonds issued pursuant to this chapter, then:

(1) The said Eastern Washington State College bonds so refunded shall be deemed not to be "outstanding" or "unpaid" for purposes of RCW 28B.40.370, 28B.40.750, or, other than RCW 28B.40.751, any other statute pertaining to said bonds or any covenant of the board of trustees of Eastern Washington State College pertaining to said bonds;

(2) Anything to the contrary in chapter 28B.40 RCW notwithstanding, all building fees and all normal school fund revenues received by Eastern Washington State College pursuant to RCW 28B.40.751 shall thenceforth be deposited into the Eastern Washington State College capital projects account and the board of trustees of said college shall thereafter transfer from said capital projects account to the state general fund, amounts sufficient to pay the principal of and interest on that portion or series of the refunding bonds necessary to refund the said bonds. The state finance committee shall determine all matters pertaining to the said transfer, including the amounts to be transferred and the time and manner of transfer; and

(3) Anything to the contrary contained in chapter 28B.40 RCW notwithstanding, the state treasurer shall immediately transfer to the state general fund all reserves, less any amount required to effect the refunding, which have been accumulated theretofore in the Eastern Washington State College bond retirement fund pursuant to covenants in the said Eastern Washington State College bonds. [1985 c 390 § 6; 1977 ex.s. c 354 § 11.]

Reviser's note: Reference to RCW sections 28B.40.370, 28B.40.750, and 28B.40.751 and to "chapter 28B.40 RCW" relates to such sections and chapter as they were before the effective date (September 21, 1977) of 1977 ex.s. c 169, which renamed Central Washington State College, Eastern Washington State College, and Western Washington State College as Central Washington University, Eastern Washington University, and

Western Washington University, respectively, creating three regional universities within the state, and setting forth the specific laws relating to them in chapter 28B.35 RCW, and leaving as chapter 28B.40 RCW the specific laws relating to The Evergreen State College.

Eastern Washington University capital projects account: RCW 28B.35.370.

"State universities," "regional universities," "state college," "institutions of higher education," and "postsecondary institutions" defined: RCW 28B.10.016.

28B.14C.120 Chapter as affecting Central Washington State College building and normal school fund revenue bonds. At such time as ample provision has been made for full payment, when due under the terms thereof or upon redemption prior to maturity, of all the principal of and interest on and redemption premium, if applicable, on all the outstanding Central Washington State College building and normal school fund revenue bonds payable from the Central Washington State College bond retirement fund, which provision has been made in a refunding plan adopted by the state finance committee pursuant to the terms of this chapter utilizing a part of the proceeds and the investment proceeds of the refunding bonds issued pursuant to this chapter, then:

(1) The said Central Washington State College bonds so refunded shall be deemed not to be "outstanding" or "unpaid" for purposes of RCW 28B.40.370, 28B.40.750, or, other than RCW 28B.40.751, any other statute pertaining to said bonds or any covenant of the board of trustees of Central Washington State College pertaining to said bonds;

(2) Anything to the contrary in chapter 28B.40 RCW notwithstanding, all building fees and all normal school fund revenues received by Central Washington State College pursuant to RCW 28B.40.751 shall thenceforth be deposited into the Central Washington State College capital projects account and the board of trustees of said college shall thereafter transfer from said capital projects account to the state general fund, amounts sufficient to pay the principal of and interest on that portion or series of the refunding bonds necessary to refund the said bonds. The state finance committee shall determine all matters pertaining to the said transfer, including the amounts to be transferred and the time and manner of transfer; and

(3) Anything to the contrary contained in chapter 28B.40 RCW notwithstanding, the state treasurer shall immediately transfer to the state general fund all reserves, less any amount required to effect the refunding, which have been accumulated theretofore in the Central Washington State College bond retirement fund pursuant to covenants in the said Central Washington State College bonds. [1985 c 390 § 7; 1977 ex.s. c 354 § 12.]

Reviser's note: Reference to RCW sections 28B.40.370, 28B.40.750, and 28B.40.751 and to "chapter 28B.40 RCW" relates to such sections and chapter as they were before the effective date (September 21, 1977) of 1977 ex.s. c 169, which renamed Central Washington State College, Eastern Washington State College, and Western Washington State College as Central Washington University, Eastern Washington University, and Western Washington University, respectively, creating three regional universities within the state and setting forth the specific laws relating to them in chapter 28B.35 RCW and leaving as chapter 28B.40 RCW the specific laws relating to The Evergreen State College.

Central Washington University capital projects account: RCW 28B.35.370.

"State universities," "regional universities," "state college," "institutions of higher education," and "postsecondary institutions" defined: RCW 28B.10.016.

28B.14C.130 Chapter as affecting Evergreen State College building revenue bonds. At such time as ample provision has been made for full payment, when due under the terms thereof or upon redemption prior to maturity, of all the principal of and interest on and redemption premium, if applicable, on all the outstanding Evergreen State College building revenue bonds payable from the Evergreen State College bond retirement fund, which provision has been made in a refunding plan adopted by the state finance committee pursuant to the terms of this chapter utilizing a part of the proceeds and the investment proceeds of the refunding bonds issued pursuant to this chapter, then:

(1) The said Evergreen State College bonds so refunded shall be deemed not to be "outstanding" or "unpaid" for purposes of RCW 28B.40.370, 28B.40.750, or, other than RCW 28B.40.751, any other statute pertaining to said bonds or any covenant of the board of trustees of The Evergreen State College pertaining to said bonds;

(2) Anything to the contrary in chapter 28B.40 RCW notwithstanding, all building fees and all normal school fund revenues received by The Evergreen State College pursuant to RCW 28B.40.751 shall thenceforth be deposited into the Evergreen State College capital projects account and the board of trustees of said college shall thereafter transfer from said capital projects account to the state general fund, amounts sufficient to pay the principal of and interest on that portion or series of the refunding bonds necessary to refund the said bonds. The state finance committee shall determine all matters pertaining to the said transfer, including the amounts to be transferred and the time and manner of transfer; and

(3) Anything to the contrary contained in chapter 28B.40 RCW notwithstanding, the state treasurer shall immediately transfer to the state general fund all reserves, less any amount required to effect the refunding, which have been accumulated theretofore in the Evergreen State College bond retirement fund pursuant to covenants in the said Evergreen State College bonds. [1985 c 390 § 8; 1977 ex.s. c 354 § 13.]

Reviser's note: Reference to RCW sections 28B.40.370, 28B.40.750, and 28B.40.751 and to "chapter 28B.40 RCW" relates to such sections and chapter as they were before the effective date (September 21, 1977) of 1977 ex.s. c 169, which renamed Central Washington State College, Eastern Washington State College, and Western Washington State College as Central Washington University, Eastern Washington University, and Western Washington University, respectively, creating three regional universities within the state, and setting forth the specific laws relating to them in chapter 28B.35 RCW, and leaving as chapter 28B.40 RCW the specific laws relating to The Evergreen State College.

"State universities," "regional universities," "state college," "institutions of higher education," and "postsecondary institutions" defined: RCW 28B.10.016.

28B.14C.140 Use limited when reserves transferred to state general fund. Any reserves transferred to the state general fund by the state treasurer pursuant to RCW 28B.14C.080(3), 28B.14C.090(3), 28B.14C.100(3), 28B.14C.110(3), 28B.14C.120(3), or 28B.14C.130(3) shall be appropriated and expended solely for the maintenance and support of the institutions listed in RCW 28B.14C.010. [1977 ex.s. c 354 § 14.]

28B.14C.900 Severability—1977 ex.s. c 354. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provisions to other persons or circumstances shall not be affected. [1977 ex.s. c 354 § 15.]

Chapter 28B.14D

1979 BOND ISSUE FOR CAPITAL IMPROVEMENTS FOR INSTITUTIONS OF HIGHER EDUCATION

Sections

28B.14D.010 Bonds authorized—Amount—Conditions.

28B.14D.020 Bond anticipation notes—Authorized—Payment.

28B.14D.030 Form, terms, conditions, sale and covenants of bonds and notes.

28B.14D.040 Disposition of proceeds from sale of bonds and notes—Higher education construction account.

28B.14D.050 Administration and use of proceeds from bonds and notes.

28B.14D.060 Higher education bond retirement fund of 1979—Created—Purpose—Treasurer's duties.

28B.14D.070 Building or capital projects account moneys deposited in general fund.

28B.14D.080 Bonds as legal investment for public funds.

28B.14D.090 Prerequisite for issuance of bonds.

28B.14D.900 Construction—Provisions as subordinate in nature.

28B.14D.950 Severability—1979 ex.s. c 253.

28B.14D.010 Bonds authorized—Amount—Conditions. For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing, and equipping of state buildings and facilities for the institutions of higher education, the state finance committee is authorized to issue from time to time general obligation bonds of the state of Washington in the sum of forty-six million dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution. [1979 ex.s. c 253 § 1.]

28B.14D.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 28B.14D.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 the bonds as may be required for the payment of principal of and redemption premium, if any, and interest on the notes shall be applied thereto when the bonds are issued. [1979 ex.s. c 253 § 2.]

28B.14D.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 provided for in RCW 28B.14D.010 and 28B.14D.020, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each 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. [1979 ex.s. c 253 § 3.]

28B.14D.040 Disposition of proceeds from sale of bonds and notes—Higher education construction account. The proceeds from the sale of the bonds authorized in this chapter, together with all grants, donations, transferred funds, and all other moneys which the state finance committee or the board of regents or board of trustees of any of the state institutions of higher education may direct the state treasurer to deposit therein, shall be deposited in the higher education construction account hereby created in the state treasury. [1991 sp.s. c 13 § 8; 1985 c 57 § 13; 1979 ex.s. c 253 § 4.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

28B.14D.050 Administration and use of proceeds from bonds and notes. Subject to legislative appropriation, all proceeds of the bonds and bond anticipation notes authorized in this chapter shall be administered and expended by the boards of regents or the boards of trustees of the state institutions of higher education exclusively for the purposes specified in this chapter and for the payment of the expenses incurred in connection with the sale and issuance of such bonds and bond anticipation notes. [1979 ex.s. c 253 § 5.]

28B.14D.060 Higher education bond retirement fund of 1979—Created—Purpose—Treasurer's duties. The higher education bond retirement fund of 1979 is hereby created in the state treasury for the purpose of the payment of principal of and interest on the bonds authorized to be issued under this chapter or, if the legislature so determines, for any bonds and notes hereafter authorized and issued for the institutions of higher education.

Upon completion of the projects for which appropriations have been made by the legislature, any proceeds of the bonds and bond anticipation notes authorized by this chapter remaining in the higher education construction account shall be transferred by the state treasurer upon authorization of the board of regents or the board of trustees of each institution, as appropriate, to the higher education bond retirement fund of 1979 to reduce the transfer or transfers required by RCW 28B.14D.070.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on 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 higher education bond retirement fund of 1979 an amount equal to the amount certified by the state finance committee to be due on the payment date. [1979 ex.s. c 253 § 6.]

28B.14D.070 Building or capital projects account moneys deposited in general fund. On or before June 30th

of each year the state finance committee shall determine the relative shares of the principal and interest payments determined pursuant to RCW 28B.14D.060, exclusive of deposit interest credit, attributable to each of the institutions of higher education in proportion to the principal amount of bonds issued under this chapter for purposes of funding projects for each institution. On each date on which any interest or principal and interest payment is due, the board of regents or the board of trustees of each institution of higher education shall cause the amount so computed to be paid out of the appropriate building account or capital projects account to the state treasurer for deposit into the general fund of the state treasury. [1979 ex.s. c 253 § 7.]

28B.14D.080 Bonds as legal investment for public funds. The bonds authorized by this chapter shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1979 ex.s. c 253 § 8.]

28B.14D.090 Prerequisite for issuance of bonds. The bonds authorized by this chapter shall be issued only after an officer designated by the board of regents or board of trustees of each institution of higher education receiving an appropriation from the higher education construction account has certified, based upon his estimates of future tuition income and other factors, that an adequate balance will be maintained in that institution's building account or capital projects account to enable the board to meet the requirements of RCW 28B.14D.070 during the life of the bonds to be issued. [1979 ex.s. c 253 § 9.]

28B.14D.900 Construction—Provisions as subordinate in nature. No provision of this chapter or chapter 43.99 RCW, or of RCW 28B.20.750 through 28B.20.758 shall be deemed to repeal, override, or limit any provision of RCW 28B.10.300 through 28B.10.335, 28B.15.210, 28B.15.310, 28B.20.700 through 28B.20.745, 28B.30.700 through 28B.30.780, or 28B.35.700 through 28B.35.790, nor any provision or covenant of the proceedings of the board of regents or board of trustees of any state institution of higher education heretofore or hereafter taken in the issuance of its revenue bonds secured by a pledge of its building fees and/or other revenues mentioned within such statutes. The obligation of such boards to make the transfers provided for in RCW 28B.14D.070, 28B.14C.080(2), 28B.14C.090(2), 28B.14C.100(2), 28B.14C.110(2), 28B.14C.120(2), 28B.14C.130(2), 28B.14G.060, 28B.20.757, 43.99G.070, and 43.99H.060 (1) and (4), and in any similar law heretofore or hereafter enacted shall be subject and subordinate to the lien and charge of any revenue bonds heretofore or hereafter issued by such boards on the building fees and/or other revenues pledged to secure such revenue bonds, and on the moneys in the building account or capital project account and the individual institutions of higher education bond retirement funds. [1991 sp.s. c 31 § 9; 1985 c 390 § 9; 1979 ex.s. c 253 § 10.]

Severability—1991 sp.s. c 31: See RCW 43.99I.900.

28B.14D.950 Severability—1979 ex.s. c 253. 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 253 § 12.]

Chapter 28B.14E

1979 BOND ISSUE FOR CAPITAL IMPROVEMENTS FOR INSTITUTIONS OF HIGHER EDUCATION

Sections

- 28B.14E.010 Bonds authorized—Amount—Conditions.
- 28B.14E.020 Bond anticipation notes—Authorized—Payment.
- 28B.14E.030 Form, terms, conditions, sale and covenants of bonds and notes.
- 28B.14E.040 Disposition of proceeds from sale of bonds and notes—Use.
- 28B.14E.050 Existing fund utilized for payment of principal and interest—Treasurer's duties.
- 28B.14E.060 Bonds as legal investment for public funds.
- 28B.14E.950 Severability—1979 ex.s. c 223.

28B.14E.010 Bonds authorized—Amount—Conditions. For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing and equipping of state buildings and facilities for the institutions of higher education, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of fourteen million dollars, or so much thereof as may be required, to finance these projects, and all costs incidental thereto. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution. [1979 ex.s. c 223 § 1.]

28B.14E.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 28B.14E.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 the bonds as may be required for the payment of principal of and redemption premium, if any, and interest on the notes shall be applied thereto when the bonds are issued. [1979 ex.s. c 223 § 2.]

28B.14E.030 Form, terms, conditions, sale and covenants of bonds and notes. The state finance committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds and/or the bond anticipation notes provided for in RCW 28B.14E.010 and 28B.14E.020, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each 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. [1979 ex.s. c 223 § 3.]

28B.14E.040 Disposition of proceeds from sale of bonds and notes—Use. Except for that portion of the proceeds required to pay bond anticipation notes under RCW

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28B.14E.020, the proceeds from the sale of the bonds and/or bond anticipation notes authorized in this chapter, together with all grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to deposit therein, shall be deposited in the state higher education construction account of the general fund in the state treasury. All such proceeds shall be used exclusively for the purposes specified in this chapter and for the payment of the expenses incurred in connection with the sale and issuance of the bonds and bond anticipation notes. [1979 ex.s. c 223 § 4.]

28B.14E.050 Existing fund utilized for payment of principal and interest—Treasurer's duties. The state higher education bond retirement fund of 1977 in the state treasury shall be used for the purpose of the payment of principal of and interest on the bonds authorized to be issued under this chapter or, if the legislature so determines, for any bonds and notes hereafter authorized and issued for the institutions of higher education.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on 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 state higher education bond retirement fund of 1977 an amount equal to the amount certified by the state finance committee to be due on the payment date. [1979 ex.s. c 223 § 5.]

28B.14E.060 Bonds as legal investment for public funds. The bonds authorized in RCW 28B.14E.010 through 28B.14E.050 shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1979 ex.s. c 223 § 6.]

28B.14E.950 Severability—1979 ex.s. c 223. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1979 ex.s. c 223 § 8.]

Chapter 28B.14F

CAPITAL IMPROVEMENTS FOR INSTITUTIONS OF HIGHER EDUCATION—BOND ISSUES

Sections

1981 BOND ISSUE

- 28B.14F.010 Bonds authorized—Amount—Condition.
- 28B.14F.020 Bonds to pledge credit of state, promise to pay.
- 28B.14F.030 Disposition of proceeds from sale of bonds—Use.
- 28B.14F.040 Existing fund utilized for payment of principal and interest—Committee and treasurer's duties.
- 28B.14F.050 Bonds as legal investment for public funds.

1983 BOND ISSUE

- 28B.14F.060 Bonds authorized—Amount—Condition.
- 28B.14F.062 Disposition of proceeds from sale of bonds—Use.

- 28B.14F.064 Existing fund utilized for payment of principal and interest—Committee and treasurer's duties—Form and conditions of bonds.
- 28B.14F.066 Refunding bonds—Legislature may provide additional means for payment.
- 28B.14F.068 Bonds as legal investment for public funds.

1984 BOND ISSUE

- 28B.14F.070 Bonds authorized—Amount—Condition.
- 28B.14F.072 Disposition of proceeds from sale of bonds—Use.
- 28B.14F.074 Existing fund utilized for payment of principal and interest.
- 28B.14F.076 Legislature may provide additional methods of raising money.
- 28B.14F.078 Bonds as legal investment for public funds.

CONSTRUCTION

- 28B.14F.950 Severability—1981 c 232.
- 28B.14F.951 Severability—1983 1st ex.s. c 58.
- 28B.14F.952 Severability—1984 c 264.

1981 BOND ISSUE

28B.14F.010 Bonds authorized—Amount—Condition. For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing and equipping of state buildings and facilities for the institutions of higher education, including facilities for the community college system, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of eight million one hundred thousand dollars, or so much thereof as may be required, to finance these projects, and all costs incidental thereto. No bonds authorized by this section may be offered for sale without prior legislative appropriation. [1981 c 232 § 1.]

28B.14F.020 Bonds to pledge credit of state, promise to pay. Each bond 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. [1981 c 232 § 2.]

28B.14F.030 Disposition of proceeds from sale of bonds—Use. The proceeds from the sale of the bonds authorized in RCW 28B.14F.010 through 28B.14F.050, together with all grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to deposit therein, shall be deposited in the state higher education construction account of the general fund in the state treasury. All such proceeds shall be used exclusively for the purposes specified in RCW 28B.14F.010 through 28B.14F.050 and for the payment of the expenses incurred in connection with the sale and issuance of the bonds. [1981 c 232 § 3.]

28B.14F.040 Existing fund utilized for payment of principal and interest—Committee and treasurer's duties. The state higher education bond retirement fund of 1977 in the state treasury shall be used for the purpose of the payment of principal of and interest on the bonds authorized to be issued under RCW 28B.14F.010 through 28B.14F.050.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount

required in the next succeeding twelve months for the payment of the principal of and the interest coming due on 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 state higher education bond retirement fund of 1977 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 the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1981 c 232 § 4.]

28B.14F.050 Bonds as legal investment for public funds. The bonds authorized in RCW 28B.14F.010 through 28B.14F.040 shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1981 c 232 § 5.]

1983 BOND ISSUE

28B.14F.060 Bonds authorized—Amount—Condition. For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing and equipping of state buildings and facilities for the institutions of higher education, including facilities for the community college system, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of eleven million two hundred fifty thousand dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. No bonds authorized in this section may be offered for sale without prior legislative appropriation. [1983 1st ex.s. c 58 § 1.]

28B.14F.062 Disposition of proceeds from sale of bonds—Use. The proceeds from the sale of the bonds authorized in RCW 28B.14F.060, together with all grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to deposit therein, shall be deposited in the state higher education construction account in the general fund and shall be used exclusively for the purposes specified in RCW 28B.14F.060 and for the payment of expenses incurred in the issuance and sale of the bonds. [1983 1st ex.s. c 58 § 2.]

28B.14F.064 Existing fund utilized for payment of principal and interest—Committee and treasurer's duties—Form and conditions of bonds. The state higher education bond retirement fund of 1977 shall be used for the payment of the principal of and interest on the bonds authorized in RCW 28B.14F.060.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. 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 state higher education bond retirement fund of 1977 an amount equal to the amount certified by the state finance committee to be due on the payment date.

Bonds issued under RCW 28B.14F.060 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1983 1st ex.s. c 58 § 3.]

28B.14F.066 Refunding bonds—Legislature may provide additional means for payment. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 28B.14F.060, and RCW 28B.14F.064 shall not be deemed to provide an exclusive method for the payment. [1983 1st ex.s. c 58 § 4.]

28B.14F.068 Bonds as legal investment for public funds. The bonds authorized in RCW 28B.14F.060 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1983 1st ex.s. c 58 § 5.]

1984 BOND ISSUE

28B.14F.070 Bonds authorized—Amount—Condition. For the purpose of acquiring land and providing needed capital improvements consisting of the acquisition, design, construction, repair, modification, and equipping of state buildings and facilities, including heating and utility distribution systems, for the community college system and the University of Washington, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of eight million six hundred seventy thousand dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [1984 c 264 § 1.]

28B.14F.072 Disposition of proceeds from sale of bonds—Use. The proceeds from the sale of the bonds authorized in RCW 28B.14F.070, together with all grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to deposit therein, shall be deposited in the state higher education construction account in the general fund and shall be used exclusively for the purposes specified in RCW 28B.14F.070 and for the payment of expenses incurred in the issuance and sale of the bonds. [1984 c 264 § 2.]

28B.14F.074 Existing fund utilized for payment of principal and interest. The state higher education bond [Title 28B RCW—page 48]

retirement fund of 1977 shall be used for the payment of the principal of and interest on the bonds authorized in RCW 28B.14F.070.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. 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 state higher education bond retirement fund of 1977 an amount equal to the amount certified by the state finance committee to be due on the payment date.

Bonds issued under RCW 28B.14F.070 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1984 c 264 § 3.]

28B.14F.076 Legislature may provide additional methods of raising money. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 28B.14F.070, and RCW 28B.14F.074 shall not be deemed to provide an exclusive method for the payment. [1984 c 264 § 4.]

28B.14F.078 Bonds as legal investment for public funds. The bonds authorized in RCW 28B.14F.070 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1984 c 264 § 5.]

CONSTRUCTION

28B.14F.950 Severability—1981 c 232. 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. [1981 c 232 § 6.]

28B.14F.951 Severability—1983 1st ex.s. c 58. 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. [1983 1st ex.s. c 58 § 6.]

28B.14F.952 Severability—1984 c 264. 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. [1984 c 264 § 6.]

Chapter 28B.14G
1981 BOND ISSUE FOR CAPITAL
IMPROVEMENTS FOR INSTITUTIONS OF
HIGHER EDUCATION (1981 C 233)

Sections

- 28B.14G.010 Bonds authorized—Amount—Condition.
 28B.14G.020 Bonds to pledge credit of state, promise to pay.
 28B.14G.030 Disposition of proceeds from sale of bonds.
 28B.14G.040 Administration and expenditure of proceeds from sale of bonds—Condition.
 28B.14G.050 Existing fund utilized for payment of principal and interest—Committee and treasurer's duties.
 28B.14G.060 Apportioning shares of principal and interest payments—Committee and treasurer's duties.
 28B.14G.070 Bonds as legal investment for public funds.
 28B.14G.080 Issuance of bonds subject to certification of maintenance of fund balances.
 28B.14G.900 Construction—Provisions as subordinate in nature.
 28B.14G.950 Severability—1981 c 233.

28B.14G.010 Bonds authorized—Amount—Condition. For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing, and equipping of state buildings and facilities for the institutions of higher education and capital improvements consisting of land acquisition, construction, remodeling, furnishing, and equipping of the hospital and related facilities for the University of Washington, the state finance committee is authorized to issue from time to time general obligation bonds of the state of Washington in the sum of eighty-six million dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. No bonds authorized by this section may be offered for sale without prior legislative appropriation. [1981 c 233 § 1.]

28B.14G.020 Bonds to pledge credit of state, promise to pay. Each bond 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. [1981 c 233 § 2.]

28B.14G.030 Disposition of proceeds from sale of bonds. The proceeds from the sale of the bonds authorized in this chapter, together with all grants, donations, transferred funds, and all other moneys which the state finance committee or the board of regents or board of trustees of any of the state institutions of higher education may direct the state treasurer to deposit therein, shall be deposited in the higher education construction account of the general fund. [1981 c 233 § 3.]

28B.14G.040 Administration and expenditure of proceeds from sale of bonds—Condition. Subject to legislative appropriation, all proceeds of the bonds authorized in this chapter shall be administered and expended by the boards of regents or the boards of trustees of the state institutions of higher education exclusively for the purposes specified in this chapter and for the payment of the expenses incurred in connection with the sale and issuance of such bonds. [1981 c 233 § 4.]

28B.14G.050 Existing fund utilized for payment of principal and interest—Committee and treasurer's duties. The higher education bond retirement fund of 1979 shall be used for the purpose of the payment of principal of and interest on the bonds authorized to be issued under this chapter.

Upon completion of the projects for which appropriations have been made by the legislature, any proceeds of the bonds authorized by this chapter remaining in the higher education construction account shall be transferred by the state treasurer upon authorization of the board of regents or the board of trustees of each institution, as appropriate, to the higher education bond retirement fund of 1979 to reduce the transfer or transfers required by RCW 28B.14G.060.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on 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 higher education bond retirement fund of 1979 an amount equal to the amount certified by the state finance committee to be due on the payment date. [1981 c 233 § 5.]

28B.14G.060 Apportioning shares of principal and interest payments—Committee and treasurer's duties. On or before June 30th of each year the state finance committee shall determine the relative shares of the principal and interest payments determined under RCW 28B.14G.050, exclusive of deposit interest credit, attributable to each of the institutions of higher education in proportion to the principal amount of bonds issued under this chapter for purposes of funding projects for each institution. On each date on which any interest or principal and interest payment is due, the board of regents or the board of trustees of each institution of higher education shall cause the amount so computed to be paid out of the appropriate building account or capital projects account to the state treasurer for deposit into the general fund of the state treasury: PROVIDED, That the amount of such principal and interest attributable to any hospital-related project at the University of Washington shall be paid out of the appropriate local hospital account. [1981 c 233 § 6.]

28B.14G.070 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. [1981 c 233 § 7.]

28B.14G.080 Issuance of bonds subject to certification of maintenance of fund balances. The bonds authorized by this chapter shall be issued only after an officer designated by the board of regents or board of trustees of each institution of higher education receiving an appropriation from the higher education construction account has certified, based upon his estimates of future tuition income and other factors, that an adequate balance will be maintained in that institution's building account or capital projects

account to enable the board to meet the requirements of RCW 28B.14G.060 during the life of the bonds to be issued: PROVIDED, That with respect to any hospital-related project at the University of Washington, it shall be certified, based on estimates of the hospital's adjusted gross revenues and other factors, that an adequate balance will be maintained in that institution's local hospital account to enable the board to meet the requirements of RCW 28B.14G.060 during the life of the bonds to be issued. [1981 c 233 § 8.]

28B.14G.900 Construction—Provisions as subordinate in nature. No provision of this chapter shall be deemed to repeal, override, or limit any provision of RCW 28B.15.210, 28B.15.310, 28B.15.402, 28B.20.700 through 28B.20.745, 28B.30.700 through 28B.30.780, or 28B.35.700 through 28B.35.790, nor any provision or covenant of the proceedings of the board of regents or board of trustees of any state institution of higher education hereafter taken in the issuance of its revenue bonds secured by a pledge of its building fees and/or other revenues mentioned within such statutes. The obligation of the board to make the transfers provided for in RCW 28B.14G.060, chapters 28B.14C and 28B.14D RCW, and RCW 28B.20.757 shall be subject and subordinate to the lien and charge of any revenue bonds hereafter issued against building fees and/or other revenues pledged to pay and secure such bonds, and on the moneys in the building account, capital project account, the individual institutions of higher education bond retirement funds and the University of Washington hospital local fund. [1985 c 390 § 10; 1982 1st ex.s. c 48 § 14; 1981 c 233 § 9.]

Severability—1982 1st ex.s. c 48: "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." [1982 1st ex.s. c 48 § 23.]

28B.14G.950 Severability—1981 c 233. 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. [1981 c 233 § 10.]

Chapter 28B.15

COLLEGE AND UNIVERSITY FEES

Sections

- 28B.15.005 "Colleges and universities" defined.
- 28B.15.011 Classification as resident or nonresident student—Legislative intent.
- 28B.15.012 Classification as resident or nonresident student—Definitions.
- 28B.15.013 Classification as resident or nonresident student—Standards for determining domicile in the state—Presumptions—Cut-off date for classification application change.
- 28B.15.014 Exemption from nonresident tuition fees differential.
- 28B.15.015 Classification as resident or nonresident student—Board to adopt rules relating to students' residency status, recovery of fees.
- 28B.15.020 "Tuition fees" defined—Use.
- 28B.15.022 "Nonresident tuition fees differential" defined.
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- 28B.15.031 "Operating fees"—Defined—Disposition.
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- 28B.15.043 "Services and activities fees"—Allocations from for institutional loan fund for needy students.

- 28B.15.044 Services and activities fees—Legislative declaration on expenditure.
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- 28B.15.065 Adjustment of state appropriations for needy student financial aid.
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- 28B.15.380 Exemption from payment of fees at state universities, regional universities, and The Evergreen State College—Veterans and children of certain law enforcement officers or fire fighters.
- 28B.15.385 "Totally disabled" defined for certain purposes.
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- 28B.15.415 Fees—Regional universities—Exemption of certain veterans from payment of fees.
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- 28B.15.556 Waiver of tuition and fees for students of foreign nations—Authorized—Limitations.
- 28B.15.558 Waiver of tuition and fees for state employees.
- 28B.15.600 Refunds or cancellation of fees.
- 28B.15.610 Voluntary fees of students.
- 28B.15.615 Exemption from resident operating fees for persons holding graduate service appointments.
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- 28B.15.900 "State universities," "regional universities," "state college," "institutions of higher education," and "postsecondary institutions" defined.
- 28B.15.910 Limitation on total operating fee revenue waived, exempted, or reduced.

Uniform minor student capacity to borrow act: Chapter 26.30 RCW.

Waiver from fees—Children of certain citizens missing in action or prisoners of war: RCW 28B.10.265.

28B.15.005 "Colleges and universities" defined. (1) "Colleges and universities" for the purposes of this chapter shall mean Central Washington University at Ellensburg, Eastern Washington University at Cheney, Western Washington University at Bellingham, The Evergreen State College in Thurston county, community colleges as are provided for in chapter 28B.50 RCW, the University of Washington, and Washington State University.

(2) "State universities" for the purposes of this chapter shall mean the University of Washington and Washington State University.

(3) "Regional universities" for the purposes of this chapter shall mean Central Washington University, Eastern Washington University and Western Washington University. [1977 ex.s. c 169 § 33; 1971 ex.s. c 279 § 1.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Severability—1971 ex.s. c 279: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 279 § 25.]

28B.15.011 Classification as resident or nonresident student—Legislative intent. It is the intent of the legislature that the state institutions of higher education shall apply uniform rules as prescribed in RCW 28B.15.012 through 28B.15.014, and not otherwise, in determining whether students shall be classified as resident students or nonresident students for all tuition and fee purposes. [1971 ex.s. c 273 § 1.]

Severability—1971 ex.s. c 273: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provisions to other persons or circumstances is not affected." [1971 ex.s. c 273 § 6.]

28B.15.012 Classification as resident or nonresident student—Definitions. Whenever used in chapter 28B.15 RCW:

(1) The term "institution" shall mean a public university, college, or community college within the state of Washington.

(2) The term "resident student" shall mean: (a) A financially independent student who has had a domicile in the state of Washington for the period of one year immediately prior to the time of commencement of the first day of the semester or quarter for which the student has registered at any institution and has in fact established a bona fide domicile in this state primarily for purposes other than educational; (b) a dependent student, if one or both of the student's parents or legal guardians have maintained a bona fide domicile in the state of Washington for at least one year immediately prior to commencement of the semester or quarter for which the student has registered at any institution; (c) a student classified as a resident based upon domicile by an institution on or before May 31, 1982, who was enrolled at a state institution during any term of the 1982-1983 academic year, so long as such student's enrollment (excepting summer sessions) at an institution in this state is continuous; or (d) any student who has spent at least seventy-five percent of both his or her junior and senior years in high schools in this state, whose parents or legal guardians have been domiciled in the state for a period of at

least one year within the five-year period before the student graduates from high school, and who enrolls in a public institution of higher education within six months of leaving high school, for as long as the student remains continuously enrolled for three quarters or two semesters in any calendar year: PROVIDED, That a nonresident student enrolled for more than six hours per semester or quarter shall be considered as attending for primarily educational purposes, and for tuition and fee paying purposes only such period of enrollment shall not be counted toward the establishment of a bona fide domicile of one year in this state unless such student proves that the student has in fact established a bona fide domicile in this state primarily for purposes other than educational.

(3) The term "nonresident student" shall mean any student who does not qualify as a "resident student" under the provisions of RCW 28B.15.011 through 28B.15.014 and 28B.15.015, each as now or hereafter amended. A nonresident student shall include:

(a) A student attending an institution with the aid of financial assistance provided by another state or governmental unit or agency thereof, such nonresidency continuing for one year after the completion of such semester or quarter.

(b) A person who is not a citizen of the United States of America who does not have permanent or temporary resident status or does not hold "Refugee-Parolee" or "Conditional Entrant" status with the United States immigration and naturalization service or is not otherwise permanently residing in the United States under color of law and who does not also meet and comply with all the applicable requirements in RCW 28B.15.011 through 28B.15.014 and 28B.15.015, each as now or hereafter amended.

(4) The term "domicile" shall denote a person's true, fixed and permanent home and place of habitation. It is the place where the student intends to remain, and to which the student expects to return when the student leaves without intending to establish a new domicile elsewhere. The burden of proof that a student, parent or guardian has established a domicile in the state of Washington primarily for purposes other than educational lies with the student.

(5) The term "dependent" shall mean a person who is not financially independent. Factors to be considered in determining whether a person is financially independent shall be set forth in rules and regulations adopted by the higher education coordinating board and shall include, but not be limited to, the state and federal income tax returns of the person and/or the student's parents or legal guardian filed for the calendar year prior to the year in which application is made and such other evidence as the board may require. [1987 c 137 § 1; 1987 c 96 § 1; 1985 c 370 § 62; 1983 c 285 § 1; 1982 1st ex.s. c 37 § 1; 1972 ex.s. c 149 § 1; 1971 ex.s. c 273 § 2.]

Reviser's note: This section was amended by 1987 c 96 § 1 and by 1987 c 137 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Effective date—1982 1st ex.s. c 37: "Sections 13 and 14 of this amendatory act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately. All other

sections of this amendatory act shall take effect on June 1, 1982." [1982 1st ex.s. c 37 § 24.]

Severability—1982 1st ex.s. c 37: "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." [1982 1st ex.s. c 37 § 23.]

Severability—1971 ex.s. c 273: See note following RCW 28B.15.011.

28B.15.013 Classification as resident or nonresident student—Standards for determining domicile in the state—Presumptions—Cut-off date for classification application change. (1) The establishment of a new domicile in the state of Washington by a person formerly domiciled in another state has occurred if such person is physically present in Washington primarily for purposes other than educational and can show satisfactory proof that such person is without a present intention to return to such other state or to acquire a domicile at some other place outside of Washington.

(2) Unless proven to the contrary it shall be presumed that:

(a) The domicile of any person shall be determined according to the individual's situation and circumstances rather than by marital status or sex.

(b) A person does not lose a domicile in the state of Washington by reason of residency in any state or country while a member of the civil or military service of this state or of the United States, nor while engaged in the navigation of the waters of this state or of the United States or of the high seas if that person returns to the state of Washington within one year of discharge from said service with the intent to be domiciled in the state of Washington; any resident dependent student who remains in this state when such student's parents, having theretofore been domiciled in this state for a period of one year immediately prior to the time of commencement of the first day of the semester or quarter for which the student has registered at any institution, remove from this state, shall be entitled to continued classification as a resident student so long as such student's attendance (except summer sessions) at an institution in this state is continuous.

(3) To aid the institution in deciding whether a student, parent, legally appointed guardian or the person having legal custody of a student is domiciled in the state of Washington primarily for purposes other than educational, the rules and regulations adopted by the higher education coordinating board shall include but not be limited to the following:

(a) Registration or payment of Washington taxes or fees on a motor vehicle, mobile home, travel trailer, boat, or any other item of personal property owned or used by the person for which state registration or the payment of a state tax or fee is required will be a factor in considering evidence of the establishment of a Washington domicile.

(b) Permanent full time employment in Washington by a person will be a factor in considering the establishment of a Washington domicile.

(c) Registration to vote for state officials in Washington will be a factor in considering the establishment of a Washington domicile.

(4) After a student has registered at an institution such student's classification shall remain unchanged in the

absence of satisfactory evidence to the contrary. A student wishing to apply for a change in classification shall reduce such evidence to writing and file it with the institution. In any case involving an application for a change from nonresident to resident status, the burden of proof shall rest with the applicant. Any change in classification, either nonresident to resident, or the reverse, shall be based upon written evidence maintained in the files of the institution and, if approved, shall take effect the semester or quarter such evidence was filed with the institution: PROVIDED, That applications for a change in classification shall be accepted up to the thirtieth calendar day following the first day of instruction of the quarter or semester for which application is made. [1989 c 175 § 79; 1985 c 370 § 63; 1982 1st ex.s. c 37 § 2; 1979 ex.s. c 15 § 1; 1972 ex.s. c 149 § 2; 1971 ex.s. c 273 § 3.]

Effective date—1989 c 175: See note following RCW 34.05.010.

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability—1971 ex.s. c 273: See note following RCW 28B.15.011.

28B.15.014 Exemption from nonresident tuition fees differential. Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges may exempt the following nonresidents from paying all or a portion of the nonresident tuition fees differential:

(1) Any person who resides in the state of Washington and who holds a graduate service appointment designated as such by a public institution of higher education or is employed for an academic department in support of the instructional or research programs involving not less than twenty hours per week during the term such person shall hold such appointment.

(2) Any faculty member, classified staff member or administratively exempt employee holding not less than a half time appointment at an institution who resides in the state of Washington, and the dependent children and spouse of such persons.

(3) Active-duty military personnel stationed in the state of Washington and the spouses and dependents of such military personnel.

(4) Any immigrant refugee and the spouse and dependent children of such refugee, if the refugee (a) is on parole status, or (b) has received an immigrant visa, or (c) has applied for United States citizenship.

(5) Domestic exchange students participating in the program created under RCW 28B.15.725.

(6) Any dependent of a member of the United States congress representing the state of Washington.

Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act. [1992 c 231 § 3. Prior: 1989 c 306 § 3; 1989 c 290 § 3; 1985 c 362 § 1; 1984 c 232 § 1; 1982 1st ex.s. c 37 § 3; 1971 ex.s. c 273 § 4.]

Effective date—1992 c 231: See note following RCW 28B.10.016.

(1992 Ed.)

Intent—1989 c 290: See note following RCW 28B.15.725.

Severability—1984 c 232: "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." [1984 c 232 § 2.]

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability—1971 ex.s. c 273: See note following RCW 28B.15.011.

28B.15.015 Classification as resident or nonresident student—Board to adopt rules relating to students' residency status, recovery of fees. The higher education coordinating board, upon consideration of advice from representatives of the state's institutions with the advice of the attorney general, shall adopt rules and regulations to be used by the state's institutions for determining a student's resident and nonresident status and for recovery of fees for improper classification of residency. [1985 c 370 § 64; 1982 1st ex.s. c 37 § 4.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

28B.15.020 "Tuition fees" defined—Use. The term "tuition fees" as used in this chapter shall mean the fees charged students registering at the state's colleges and universities which consist of:

(1) The "building fees" as defined in RCW 28B.15.025; and

(2) The "operating fees" as defined in RCW 28B.15.031. [1985 c 390 § 11; 1977 ex.s. c 169 § 34; 1969 ex.s. c 223 § 28B.15.020. Prior: (i) 1967 ex.s. c 8 § 31, part. Formerly RCW 28.85.310, part. (ii) 1963 c 181 § 1, part; 1961 ex.s. c 10 § 1, part; 1959 c 186 § 1, part; 1947 c 243 § 1, part; 1945 c 187 § 1, part; 1933 c 169 § 1, part; 1931 c 48 § 1, part; 1921 c 139 § 1, part; 1919 c 63 § 1, part; 1915 c 66 § 2, part; RRS § 4546, part. Formerly RCW 28.77.030, part. (iii) 1963 c 180 § 1, part; 1961 ex.s. c 11 § 1, part; 1949 c 73 § 1, part; 1931 c 49 § 1, part; 1921 c 164 § 1, part; Rem. Supp. 1949 § 4569, part. Formerly RCW 28.80.030, part. (iv) 1967 c 47 § 10, part; 1965 ex.s. c 147 § 1, part; 1963 c 143 § 1, part; 1961 ex.s. c 13 § 3, part. Formerly RCW 28.81.080, part.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.15.022 "Nonresident tuition fees differential" defined. Unless the context clearly requires otherwise, as used in this chapter "nonresident tuition fees differential" means the difference between resident tuition fees and nonresident tuition fees. [1992 c 231 § 32.]

Effective date—1992 c 231: See note following RCW 28B.10.016.

28B.15.025 "Building fees" defined—Use. The term "building fees" means the fees charged students registering at the state's colleges and universities, which fees are to be used as follows: At the University of Washington, solely for the purposes provided in RCW 28B.15.210; at Washington State University, solely for the purposes provided in RCW 28B.15.310; at each of the regional universities and at The

Evergreen State College, solely for the purposes provided in RCW 28B.35.370; and at the community colleges, for the purposes provided in RCW 28B.50.320, 28B.50.360 and 28B.50.370. The term "building fees" is a renaming of the "general tuition fee," and shall not be construed to affect otherwise moneys pledged to, or used for bond retirement purposes. [1985 c 390 § 12.]

28B.15.031 "Operating fees"—Defined—Disposition. The term "operating fees" as used in this chapter shall include the fees, other than building fees, charged all students registering at the state's colleges and universities but shall not include fees for short courses, self-supporting degree credit programs and courses, marine station work, experimental station work, correspondence or extension courses, and individual instruction and student deposits or rentals, disciplinary and library fines, which colleges and universities shall have the right to impose, laboratory, gymnasium, health, and student activity fees, or fees, charges, rentals, and other income derived from any or all revenue producing lands, buildings and facilities of the colleges or universities heretofore or hereafter acquired, constructed or installed, including but not limited to income from rooms, dormitories, dining rooms, hospitals, infirmaries, housing or student activity buildings, vehicular parking facilities, land, or the appurtenances thereon, or such other special fees as may be established by any college or university board of trustees or regents from time to time. All moneys received as operating fees at any institution of higher education shall be transmitted to the state treasurer within thirty-five days of receipt to be deposited in the state general fund: PROVIDED, That two and one-half percent of moneys received as operating fees be exempt from such deposit and be retained by the institutions for the purposes of RCW 28B.15.820: PROVIDED FURTHER, That money received by institutions of higher education from the periodic payment plan authorized by RCW 28B.15.411 shall be transmitted to the state treasurer within five days following the close of registration of the appropriate quarter or semester. [1987 c 15 § 2. Prior: 1985 c 390 § 13; 1985 c 356 § 2; 1982 1st ex.s. c 37 § 12; 1981 c 257 § 1; 1979 c 151 § 14; 1977 ex.s. c 331 § 3; 1971 ex.s. c 279 § 2.]

Effective date—1987 c 15: See note following RCW 28B.15.411.

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability—1981 c 257: "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." [1981 c 257 § 13.]

Effective date—1977 ex.s. c 331: "The effective date of this 1977 amendatory act shall be September 1, 1977." [1977 ex.s. c 331 § 5.]

Severability—1977 ex.s. c 331: "If any provision of this 1977 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 331 § 4.]

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

28B.15.041 "Services and activities fees" defined. The term "services and activities fees" as used in this chapter is defined to mean fees, other than tuition fees, charged to all students registering at the state's community colleges, regional universities, The Evergreen State College, and state

universities. Services and activities fees shall be used as otherwise provided by law or by rule or regulation of the board of trustees or regents of each of the state's community colleges, The Evergreen State College, the regional universities, or the state universities for the express purpose of funding student activities and programs of their particular institution. Student activity fees, student use fees, student building use fees, special student fees, or other similar fees charged to all full time students, or to all students, as the case may be, registering at the state's colleges or universities and pledged for the payment of bonds heretofore or hereafter issued for, or other indebtedness incurred to pay, all or part of the cost of acquiring, constructing or installing any lands, buildings, or facilities of the nature described in RCW 28B.10.300 as now or hereafter amended, shall be included within and deemed to be services and activities fees. [1985 c 390 § 14; 1977 ex.s. c 169 § 35. Prior: 1973 1st ex.s. c 130 § 2; 1973 1st ex.s. c 46 § 1; 1971 ex.s. c 279 § 3.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Severability—1973 1st ex.s. c 46: See note following RCW 28B.10.704.

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

28B.15.043 "Services and activities fees"—Allocations from for institutional loan fund for needy students. See RCW 28B.10.825.

28B.15.044 Services and activities fees—Legislative declaration on expenditure. It is the intent of the legislature that students will propose budgetary recommendations for consideration by the college or university administration and governing board 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. [1986 c 91 § 1; 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.]

28B.15.045 Services and activities fees—Guidelines governing establishment and funding of programs supported by—Scope—Mandatory provisions—Dispute resolution. The legislature recognizes that institutional governing boards have a responsibility to manage and protect institutions of higher education. This responsibility includes ensuring certain lawful agreements for which revenues from services and activities fees have been pledged. Such lawful agreements include, but are not limited to, bond covenant agreements and other contractual obligations. Institutional governing boards are also expected to protect the stability of programs that benefit students.

The legislature also recognizes that services and activities fees are paid by students for the express purpose of funding student services and programs. It is the intent of the legislature that governing boards ensure that students have a strong voice in recommending budgets for services and

activities fees. 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 stipulate procedures for budgeting and expending services and activities fee revenue. Any such guidelines shall be consistent with the following provisions:

(1) Student representatives from the services and activities fee committee and representatives of the college or university administration shall have an opportunity to address the board before board decisions on services and activities fee budgets and dispute resolution actions are made;

(2) Members of the governing boards shall adhere to the principle that services and activities fee committee desires be given priority consideration on funding items that do not fall into the categories of preexisting contractual obligations, bond covenant agreements, or stability for programs affecting students;

(3) Responsibility for proposing to the administration and the governing board 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 shall represent diverse student interests, and shall be recommended by the student government association or its equivalent. The chairperson of the services and activities fee committee shall be selected by the members of that committee. The governing board shall insure that the services and activities fee committee provides an opportunity for all viewpoints to be heard at a public meeting during its consideration of the funding of student programs and activities.

(4) 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 with supporting documents simultaneously to the college or university governing board and administration.

(5) The college or university administration shall review the services and activities fee committee budget recommendations and publish a written response to the services and activities fee committee. This response shall outline potential areas of difference between the committee recommendations and the administration's proposed budget recommendations. This response, with supporting documentation, shall be submitted to the services and activities fee committee in a timely manner to allow adequate consideration.

(6)(a) In the event of a dispute or disputes involving the services and activities fee committee recommendations, the college or university administration shall meet with the services and activities fee committee in a good faith effort to resolve such dispute or disputes prior to submittal of final recommendations to the governing board.

(b) If said dispute is not resolved within fourteen days, a dispute resolution committee shall be convened by the chair of the services and activities fee committee within fourteen days.

(7) The dispute resolution committee shall be selected as follows: The college or university administration shall appoint two nonvoting advisory members; the governing board shall appoint three voting members; and the services and activities fee committee chair shall appoint three student

members of the services and activities fee committee who will have a vote, and one student representing the services and activities fee committee who will chair the dispute resolution committee and be nonvoting. The committee shall meet in good faith, and settle by vote any and all disputes. In the event of a tie vote, the chair of the dispute resolution committee shall vote to settle the dispute.

(8) The governing board may take action on those portions of the services and activities fee budget not in dispute in accordance with the customary budget approval timeline established by the board. The governing board shall consider the results, if any, of the dispute resolution committee and shall take action.

(9) 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.

(10) 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.

(11) All information pertaining to services and activities fees budgets shall be made available to interested parties.

(12) With the exception of any funds needed for bond covenant obligations, once the budget for expending service and activities fees is approved by the governing board, funds shall not be shifted from funds budgeted for associated students or departmentally related categories or the reserve fund until the administration provides written justification to the services and activities fee committee and the governing board, or the governing board gives its express approval. In the event of a fund transfer dispute among the services and activities fee committee, the administration, or the governing board, said dispute shall be resolved pursuant to subsections (6)(b), (7), and (8) of this section.

(13) Any service and activities fees collected which exceed initially budgeted amounts are subject to subsections (1) through (10) and (12) of this section. [1990 c 7 § 1; 1986 c 91 § 2; 1980 c 80 § 2.]

Severability—1980 c 80: See note following RCW 28B.15.044.

28B.15.065 Adjustment of state appropriations for needy student financial aid. It is the intent of the legislature that needy students not be deprived of access to higher education due to increases in educational costs or consequent increases in tuition and fees. It is the sense of the legislature that state appropriations for student financial aid be adjusted in an amount which together with funds estimated to be available in the form of basic educational opportunity grants as authorized under Section 411 of the federal Higher Education Act of 1965 as now or hereafter amended will equal twenty-four percent of any change in revenue estimated to occur as a result of revisions in tuition and fee levels under the provisions of this 1977 amendatory act. [1977 ex.s. c 322 § 6.]

Reviser's note: Phrase "this 1977 amendatory act" refers to RCW 28B.15.060, 28B.15.065, 28B.15.070, 28B.15.075, 28B.15.100, 28B.15.201, 28B.15.380, 28B.15.401, 28B.15.500, 28B.15.620, 28B.15.710, 28B.15.800, 28B.35.361, 28B.40.361 and to the repeal of RCW 28B.15.200, 28B.15.300, 28B.15.400 and 28B.15.630.

Severability—1977 ex.s. c 322: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 322 § 17.]

28B.15.067 Tuition fees—Established and adjusted annually. (1) Tuition fees shall be established and adjusted annually under the provisions of this chapter beginning with the 1987-88 academic year. Such fees shall be identical, subject to other provisions of this chapter, for students enrolled at either state university, for students enrolled at the regional universities and The Evergreen State College and for students enrolled at any community college. Tuition fees shall reflect the undergraduate and graduate educational costs of the state universities, the regional universities and the community colleges, respectively, in the amounts prescribed in this chapter.

(2) The tuition fees established under this chapter shall not apply to high school students enrolling in community colleges under RCW 28A.600.300 through 28A.600.395. [1992 c 231 § 4; 1990 1st ex.s. c 9 § 413; 1986 c 42 § 1; 1985 c 390 § 15; 1982 1st ex.s. c 37 § 15; 1981 c 257 § 2.]

Effective date—1992 c 231: See note following RCW 28B.10.016.

Finding—Severability—1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability—1981 c 257: See note following RCW 28B.15.031.

28B.15.070 Development of definitions, criteria, and procedures for the educational costs of instruction—Educational cost study. (1) The higher education coordinating board, in consultation with the house of representatives and senate committees responsible for higher education, the respective fiscal committees of the house of representatives and senate, the office of financial management, and the state institutions of higher education, shall develop by December of every fourth year beginning in 1989, definitions, criteria, and procedures for determining the undergraduate and graduate educational costs for the state universities, regional universities, and community colleges upon which tuition fees will be based.

(2) Every four years, the state institutions of higher education in cooperation with the higher education coordinating board shall perform an educational cost study pursuant to subsection (1) of this section. The study shall be conducted based on every fourth academic year beginning with 1989-90. Institutions shall complete the studies within one year of the end of the study year and report the results to the higher education coordinating board for consolidation, review, and distribution.

(3) In order to conduct the study required by subsection (2) of this section, the higher education coordinating board, in cooperation with the institutions of higher education, shall develop a methodology that requires the collection of comparable educational cost data, which utilizes a faculty activity analysis or similar instrument. [1992 c 231 § 5; 1989 c 245 § 3. Prior: 1985 c 390 § 16; 1985 c 370 § 65; 1982 1st ex.s. c 37 § 16; 1981 c 257 § 3; 1977 ex.s. c 322 § 7.]

Effective date—1992 c 231: See note following RCW 28B.10.016.

Analyses—1989 c 245: "(1) The higher education coordinating board, with cooperation from the institutions of higher education, shall conduct a full review and analysis of the accuracy and consistency of the educational costs study. The board shall report to the legislature by December 1990, outlining its findings and making recommendations upon establishing a modified tuition fees structure based upon educational costs.

(2) The board shall conduct a full analysis and comparison of the educational costs at the University of Washington and Washington State University. The board shall also perform a comparison of the tuition fees charged at the University of Washington and Washington State University with tuition at their respective peer institutions. The board will provide recommendations on whether different levels of tuition fees should be charged at each of the state research universities." [1989 c 245 § 2.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability—1981 c 257: See note following RCW 28B.15.031.

Severability—1977 ex.s. c 322: See note following RCW 28B.15.065.

28B.15.076 Board to transmit amounts constituting approved educational costs, when. The higher education coordinating board shall determine and transmit amounts constituting approved undergraduate and graduate educational costs to the several boards of regents and trustees of the state institutions of higher education by November 10 of each even-numbered year except the year 1990 for which the transmittal shall be made by December 17. Tuition fees shall be based on such costs in accordance with the provisions of this chapter. [1989 c 245 § 4. Prior: 1985 c 390 § 17; 1985 c 370 § 66; 1982 1st ex.s. c 37 § 17; 1981 c 257 § 4.]

Analyses—1989 c 245: See note following RCW 28B.15.070.

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability—1981 c 257: See note following RCW 28B.15.031.

28B.15.100 Tuition and fees set by individual institutions—Limitations—Tuition and fees for certain part time, additional time, and out-of-state students. (1) The governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges shall charge to and collect from each of the students registering at the particular institution for any quarter or semester such tuition fees and services and activities fees, and other fees as such board shall in its discretion determine. The total of all fees shall be rounded to the nearest whole dollar amount: PROVIDED, That such tuition fees for other than the summer term shall be in the amounts for the respective institutions as otherwise set forth in this chapter.

(2) Part time students shall be charged tuition and services and activities fees proportionate to full time student rates established for residents and nonresidents: PROVIDED, That students registered for fewer than two credit hours shall be charged tuition and services and activities fees at the rate established for two credit hours: PROVIDED FURTHER, That, subject to the limitations of RCW 28B.15.910, residents of Idaho or Oregon who are enrolled in community college district number twenty for six or fewer credits during any quarter or semester may be exempted from payment of

all or a portion of the nonresident tuition fees differential upon a declaration by the higher education coordinating board that it finds Washington residents from the community college district are afforded substantially equivalent treatment by such other states.

(3) Full-time students registered for more than eighteen credit hours shall be charged an additional operating fee for each credit hour in excess of eighteen hours at the applicable established per credit hour tuition fee rate for part-time students: PROVIDED, That, subject to the limitations of RCW 28B.15.910, the governing boards of the state universities and the community colleges may exempt all or a portion of the additional charge, for students who are registered exclusively in first professional programs in medicine, dental medicine, veterinary medicine, or law, or who are registered exclusively in required courses in vocational preparatory programs.

(4) Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act. [1992 c 231 § 6. Prior: 1985 c 390 § 18; 1985 c 370 § 67; 1982 1st ex.s. c 37 § 11; 1981 c 257 § 5; 1977 ex.s. c 322 § 2; 1977 ex.s. c 169 § 36; 1971 ex.s. c 279 § 5; 1969 ex.s. c 223 § 28B.15.100; prior: (i) 1967 ex.s. c 8 § 31, part. Formerly RCW 28.85.310, part. (ii) 1963 c 181 § 1, part; 1961 ex.s. c 10 § 1, part; 1959 c 186 § 1, part; 1947 c 243 § 1, part; 1945 c 187 § 1, part; 1933 c 169 § 1, part; 1931 c 48 § 1, part; 1921 c 139 § 1, part; 1919 c 63 § 1, part; 1915 c 66 § 2, part; RRS § 4546, part. Formerly RCW 28.77.030, part. (iii) 1963 c 180 § 1, part; 1961 ex.s. c 11 § 1, part; 1949 c 73 § 1, part; 1931 c 49 § 1, part; 1921 c 164 § 1, part; Rem. Supp. 1949 § 4569, part. Formerly RCW 28.80.030, part. (iv) 1967 c 47 § 10, part; 1965 ex.s. c 147 § 1, part; 1963 c 143 § 1, part; 1961 ex.s. c 13 § 3, part. Formerly RCW 28.81.080, part.]

Effective date—1992 c 231: See note following RCW 28B.10.016.

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability—1981 c 257: See note following RCW 28B.15.031.

Severability—1977 ex.s. c 322: See note following RCW 28B.15.065.

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

28B.15.110 Tuition and fees when joint program of four year institutions—Supplemental fees, when. Where students at any of the four year state colleges or universities participate in a joint program undertaken by two or more of such institutions, and which leads to a degree, the tuition and fees assessed each student participating in such joint program shall be equal.

The governing board at each state four year institution shall, where the tuition and fees which it charges resident students participating in a joint program falling within the scope of this section would be less than those charged to any such students from any other state four year institution who participates in such joint program, impose a supplemental fee

upon its resident students so participating in order to make the tuition and fees charged to them equal to the highest amount charged to any other resident student from a state four year institution who participates in the program. Such governing board shall, where the tuition and fees which it charges nonresident students participating in a joint program falling within the scope of this section would be less than those charged to any such students participating from any other state four year institution who participates in such joint program, impose a supplemental fee upon its nonresident students so participating in order to make the tuition and fees charged to them equal to the highest amount charged to any other nonresident student from a state four year institution who participates in the program. [1977 ex.s. c 126 § 1.]

"State universities," "regional universities," "state college," "institutions of higher education," and "postsecondary institutions" defined: RCW 28B.10.016.

28B.15.202 Tuition and fees—University of Washington and Washington State University—Maximum services and activities fee. Tuition fees and maximum services and activities fees at the University of Washington and at Washington State University for other than the summer term shall be as follows:

(1) For full time resident undergraduate students and all other full time resident students not in graduate study programs or enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, the total tuition fees shall be thirty-three percent of the per student undergraduate educational costs at the state universities computed as provided in RCW 28B.15.067 and 28B.15.070: PROVIDED, That the building fees for each academic year shall be one hundred and twenty dollars.

(2) For full time resident graduate and law students not enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, the total tuition fees shall be twenty-three percent of the per student graduate educational costs at the state universities computed as provided in RCW 28B.15.067 and 28B.15.070: PROVIDED, That the building fees for each academic year shall be one hundred and twenty dollars.

(3) For full time resident students enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, the total tuition fees shall be one hundred sixty-seven percent of such fees charged in subsection (2) of this section: PROVIDED, That the building fees for each academic year shall be three hundred and forty-two dollars.

(4) For full time nonresident undergraduate students and such other full time nonresident students not in graduate study programs or enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, or doctor of veterinary medicine, the total tuition fees shall be one hundred percent of the per student undergraduate educational costs at the state universities computed as provided in RCW 28B.15.067 and 28B.15.070: PROVIDED, That the building fees for each academic year shall be three hundred and fifty-four dollars.

(5) For full time nonresident graduate and law students not enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary

medicine, the total tuition fees shall be sixty percent of the per student graduate educational costs at the state universities computed as provided in RCW 28B.15.067 and 28B.15.070: PROVIDED, That the building fees for each academic year shall be three hundred and fifty-four dollars.

(6) For full time nonresident students enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, the total tuition fees shall be one hundred sixty-seven percent of such fees charged in subsection (5) of this section: PROVIDED, That the building fees for each academic year shall be five hundred and fifty-five dollars.

(7) The governing boards of the state universities shall charge to and collect from each student, a services and activities fee. The governing board may increase the existing fee annually, consistent with budgeting procedures set forth in RCW 28B.15.045, by a percentage not to exceed the annual percentage increase in resident undergraduate tuition fees: PROVIDED, That such percentage increase shall not apply to that portion of the services and activities fee previously committed to the repayment of bonded debt. The services and activities fee committee provided for in RCW 28B.15.045 may initiate a request to the governing board for a fee increase. [1992 c 231 § 7; 1985 c 390 § 19; 1982 1st ex.s. c 37 § 18; 1981 c 257 § 6.]

Effective date—1992 c 231: See note following RCW 28B.10.016.

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability—1981 c 257: See note following RCW 28B.15.031.

28B.15.210 Fees—University of Washington—Disposition of building fees. Within thirty-five days from the date of collection thereof, all building fees at the University of Washington, including building fees to be charged students registering in the schools of medicine and dentistry, shall be paid into the state treasury and credited as follows:

One-half or such larger portion as may be necessary to prevent a default in the payments required to be made out of the bond retirement fund, and in no event shall such one-half be less than twelve dollars and fifty cents per each resident student per quarter, and thirty-seven dollars and fifty cents per each nonresident student per quarter to the "University of Washington bond retirement fund" and the remainder thereof to the "University of Washington building account." The sum so credited to the University of Washington building account shall be used exclusively for the purpose of erecting, altering, maintaining, equipping, or furnishing buildings except for any sums transferred as authorized in RCW 28B.20.725(3). The sum so credited to the University of Washington bond retirement fund shall be used for the payment of principal of and interest on bonds outstanding as provided by chapter 28B.20 RCW except for any sums transferred as authorized in RCW 28B.20.725(5). [1985 c 390 § 20; 1969 ex.s. c 223 § 28B.15.210. Prior: 1963 c 224 § 1; 1959 c 193 § 7; 1957 c 254 § 6; 1947 c 243 § 2; 1945 c 187 § 2; 1939 c 156 § 1; 1933 c 169 § 2; 1921 c 139 § 2; 1919 c 63 § 2; 1915 c 66 § 3; Rem. Supp. 1947 § 4547. Formerly RCW 28.77.040.]

28B.15.220 Fees—University of Washington—Disposition of special fees. All fees except building fees

shall be held by the board of regents as a revolving fund and expended for the purposes for which collected and be accounted for in accordance with law: PROVIDED, That the board of regents shall have authority to place in a separate fund or funds any or all fees or rentals exacted for the use of facilities of any dormitory, hospital, or infirmary building, and the board of regents shall have authority to pledge any or all such fees for the retirement of any bonds that may be issued for the construction of such dormitory, hospital, or infirmary building. [1985 c 390 § 21; 1969 ex.s. c 223 § 28B.15.220. Prior: 1961 c 229 § 6; prior: (i) 1933 ex.s. c 24 § 1; 1921 c 139 § 3; 1919 c 63 § 3; 1915 c 66 § 4; RRS § 4548. (ii) 1947 c 64 § 2, part; 1933 ex.s. c 23 § 2, part; 1925 ex.s. c 91 § 2, part; Rem. Supp. 1947 § 4543-2, part. Formerly RCW 28.77.050.]

28B.15.225 Exemption from fees of schools of medicine or dentistry at University of Washington—Exemption from nonresident tuition fees differential for participants in the Washington, Alaska, Montana, or Idaho program at Washington State University. Subject to the limitations of RCW 28B.15.910, the governing board of the University of Washington may exempt the following students from the payment of all or a portion of the nonresident tuition fees differential: Students admitted to the university's school of medicine pursuant to contracts with the states of Alaska, Montana, or Idaho, or agencies thereof, providing for a program of regionalized medical education conducted by the school of medicine; or students admitted to the university's school of dentistry pursuant to contracts with the states of Utah, Idaho, or any other western state which does not have a school of dentistry, or agencies thereof, providing for a program of regionalized dental education conducted by the school of dentistry. The proportional cost of the program, in excess of resident student tuition and fees, will be reimbursed to the university by or on behalf of participating states or agencies. Subject to the limitations of RCW 28B.15.910, the governing board of Washington State University may exempt from payment all or a portion of the nonresident tuition fee[s] differential for any student admitted to the University of Washington's school of medicine and attending Washington State University as a participant in the Washington, Alaska, Montana, or Idaho program in this section. Washington State University may reduce the professional student tuition for students enrolled in this program by the amount the student pays the University of Washington as a registration fee.

Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act. [1992 c 231 § 8; 1981 c 20 § 1; 1975 1st ex.s. c 105 § 1.]

Effective date—1992 c 231: See note following RCW 28B.10.016.

28B.15.310 Fees—Washington State University—Disposition of building fees. Within thirty-five days from the date of collection thereof, all building fees shall be paid into the state treasury and credited to the Washington State University bond retirement fund, one-half or such larger portion as may be necessary to prevent a default in the

payments required to be made out of such bond retirement fund; the remainder thereof to the Washington State University building account.

The sum so credited to the Washington State University building account shall be expended by the board of regents for buildings, equipment, or maintenance on the campus of Washington State University as may be deemed most advisable and for the best interests of the university, except for any sums transferred as authorized by law. Expenditures so made shall be accounted for in accordance with existing law and shall not be expended until appropriated by the legislature.

The sum so credited to the Washington State University bond retirement fund shall be used to pay and secure the payment of the principal of and interest on building bonds issued by the university, except for any sums which may be transferred out of such fund as authorized by law. [1985 c 390 § 22; 1969 ex.s. c 223 § 28B.15.310. Prior: 1961 ex.s. c 11 § 2; 1935 c 185 § 1; 1921 c 164 § 2; RRS § 4570. Formerly RCW 28.80.040.]

Chapter not to repeal, override or limit other statutes or actions: RCW 28B.31.100.

28B.15.380 Exemption from payment of fees at state universities, regional universities, and The Evergreen State College—Veterans and children of certain law enforcement officers or fire fighters. Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, and The Evergreen State College may exempt the following students from the payment of all or a portion of tuition fees and services and activities fees:

(1) All veterans as defined in RCW 41.04.005: PROVIDED, That such persons are no longer entitled to federal vocational or educational benefits conferred by virtue of their military service: AND PROVIDED FURTHER, That if any such veterans have not resided in this state for one year prior to registration, the board may exempt the student from paying up to fifty percent of the nonresident tuition fees differential. Such exemptions may be provided only to those persons otherwise covered who were enrolled in universities on or before October 1, 1977.

(2) Children of any law enforcement officer or fire fighter who lost his or her life or became totally disabled in the line of duty while employed by any public law enforcement agency or full time or volunteer fire department in this state: PROVIDED, That such persons may receive the exemption only if they begin their course of study at a state-supported college or university within ten years of their graduation from high school.

Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act. [1992 c 231 § 9; 1990 c 154 § 1; 1985 c 390 § 23; 1979 c 82 § 1; 1977 ex.s. c 322 § 10; 1977 ex.s. c 169 § 37; 1973 1st ex.s. c 191 § 1; 1971 ex.s. c 279 § 8; 1969 ex.s. c 269 § 8; 1969 ex.s. c 223 § 28B.15.380. Prior: (i) 1947 c 46 § 1; 1921 c 139 § 5; Rem. Supp. 1947 § 4550. Formerly RCW 28.77.070. (ii) 1921 c 164 § 4, part; RRS § 4572, part. Formerly RCW 28.80.060, part.]

Effective date—1992 c 231: See note following RCW 28B.10.016.

Severability—1979 c 82: "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." [1979 c 82 § 3.]

Severability—1977 ex.s. c 322: See note following RCW 28B.15.065.

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Effective date—1973 1st ex.s. c 191: "This 1973 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1973." [1973 1st ex.s. c 191 § 4.]

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

"Totally disabled" defined for certain purposes: RCW 28B.15.385.

28B.15.385 "Totally disabled" defined for certain purposes. For the purposes of RCW 28B.15.380, 28B.15.385, 28B.15.520 and 28B.40.361 the phrase "totally disabled" as used in RCW 28B.15.380, 28B.15.520 and 28B.40.361 shall mean a person who has become totally and permanently disabled for life by bodily injury or disease, and is thereby prevented from performing any occupation or gainful pursuit. [1973 1st ex.s. c 191 § 5.]

Effective date—1973 1st ex.s. c 191: See note following RCW 28B.15.380.

28B.15.402 Tuition and fees—Regional universities and The Evergreen State College—Maximum services and activities fees. Tuition fees and maximum services and activities fees at the regional universities and The Evergreen State College for other than the summer term shall be as follows:

(1) For full time resident undergraduate students and all other full time resident students not in graduate study programs, the total tuition fees shall be twenty-five percent of the per student undergraduate educational costs at the regional universities computed as provided in RCW 28B.15.067 and 28B.15.070: PROVIDED, That the building fees for each academic year shall be seventy-six dollars and fifty cents.

(2) For full time resident graduate students, the total tuition fees shall be twenty-three percent of the per student graduate educational costs at the regional universities computed as provided in RCW 28B.15.067 and 28B.15.070: PROVIDED, That the building fees for each academic year shall be seventy-six dollars and fifty cents.

(3) For full time nonresident undergraduate students and all other full time nonresident students not in graduate study programs, the total tuition fees shall be one hundred percent of the per student undergraduate educational costs at the regional universities computed as provided in RCW 28B.15.067 and 28B.15.070: PROVIDED, That the building fees for each academic year shall be two hundred and ninety-five dollars and fifty cents.

(4) For full time nonresident graduate students, the total tuition fees shall be seventy-five percent of the per student graduate educational costs at the regional universities computed as provided in RCW 28B.15.067 and 28B.15.070: PROVIDED, That the building fees for each academic year shall be two hundred and ninety-five dollars and fifty cents.

(5) The governing boards of each of the regional universities and The Evergreen State College shall charge to and collect from each student, a services and activities fee. The governing board may increase the existing fee annually, consistent with budgeting procedures set forth in RCW 28B.15.045, by a percentage not to exceed the annual percentage increase in resident undergraduate tuition fees: PROVIDED, That such percentage increase shall not apply to that portion of the services and activities fee previously committed to the repayment of bonded debt. The services and activities fee committee provided for in RCW 28B.15.045 may initiate a request to the governing board for a fee increase. [1992 c 231 § 10; 1989 c 245 § 1; 1985 c 390 § 24; 1982 1st ex.s. c 37 § 19; 1981 c 257 § 7.]

Effective date—1992 c 231: See note following RCW 28B.10.016.

Analyses—1989 c 245: See note following RCW 28B.15.070.

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability—1981 c 257: See note following RCW 28B.15.031.

28B.15.411 Fees—Installment payments. Each institution of higher education, at its discretion, may offer students an optional plan to pay in advance the building fees, operating fees, and services and activities fees for any quarter or semester in periodic installments, as established by that institution of higher education. [1987 c 15 § 1; 1985 c 356 § 1.]

Effective date—1987 c 15: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1987." [1987 c 15 § 3.]

Report to legislature—1985 c 356: "Any institution of higher education offering a payment plan under RCW 28B.15.411, shall report to the legislature by January 1, 1988, about the effectiveness of the plan and costs of administering the plan." [1985 c 356 § 3.]

28B.15.414 Fees—The Evergreen State College—Exemptions of certain veterans from payment of fees. See RCW 28B.40.361.

28B.15.415 Fees—Regional universities—Exemption of certain veterans from payment of fees. See RCW 28B.35.361.

28B.15.450 Gender equity—Intent. The legislature finds that the ratio of women to men in intercollegiate athletics in Washington's higher education system is inequitable. It is the intent of the legislature, through additional tuition and fee waivers, to achieve gender equity in intercollegiate athletics. [1989 c 340 § 1.]

28B.15.455 Gender equity—Goals. Institutions of higher education shall strive to accomplish the following goals:

(1) Provide the following benefits and services equitably to male and female athletes participating in intercollegiate athletic programs: Equipment and supplies; medical services; services and insurance; transportation and per diem allowances; opportunities to receive coaching and instruction; scholarships and other forms of financial aid; conditioning programs; laundry services; assignment of game officials; opportunities for competition, publicity, and awards; and

scheduling of games and practice times, including use of courts, gyms, and pools. Each institution which provides showers, toilets, lockers, or training room facilities for athletic purposes shall provide access to comparable facilities for both males and females.

(2) Provide equitable intercollegiate athletic opportunities for male and female students including opportunities to participate and to receive the benefits of the services listed in subsection (1) of this section.

(3) Provide participants with female and male coaches and administrators to act as role models. [1989 c 340 § 3.]

28B.15.460 Gender equity—Tuition and fee waivers. (1) An institution of higher education shall not grant any waivers for the purpose of achieving gender equity until the 1991-92 academic year, and may grant waivers for the purpose of achieving gender equity in intercollegiate athletic programs as authorized in RCW 28B.15.740, for the 1991-92 academic year only if the institution's governing board has adopted a plan for complying with the provisions of RCW 28B.15.455 and submitted the plan to the higher education coordinating board.

(2) Beginning in the 1992-93 academic year, an institution of higher education shall not grant any waiver for the purpose of achieving gender equity in intercollegiate athletic programs as authorized in RCW 28B.15.740 unless the institution's plan has been approved by the higher education coordinating board.

(3) The plan shall include, but not be limited to:

(a) For any institution with an underrepresented gender class, provisions that ensure that by July 1, 1994, the institution shall provide athletic opportunities for the underrepresented gender class at a rate that meets or exceeds the rate at which that class participates in high school interscholastic athletics in Washington state not to exceed the point at which the underrepresented gender class is no longer underrepresented;

(b) Activities to be undertaken by the institution to increase participation rates of any underrepresented gender class in interscholastic and intercollegiate athletics. These activities may include, but are not limited to: Sponsoring equity conferences, coaches clinics and sports clinics; and taking a leadership role in working with athletic conferences to reduce barriers to participation by those gender classes in interscholastic and intercollegiate athletics;

(c) An identification of barriers to achieving and maintaining equitable intercollegiate athletic opportunities for men and women; and

(d) Measures to achieve institutional compliance with the provisions of RCW 28B.15.455. [1989 c 340 § 4.]

28B.15.465 Gender equity—Reports. (1) The higher education coordinating board shall report biennially, beginning December 1992, to the governor and the house of representatives and senate committees on higher education, on institutional efforts to comply with the requirements of RCW 28B.15.740, 28B.15.455, and 28B.15.460. Each report shall include recommendations on measures to assist institutions with compliance. The first report shall also include a recommendation on whether to grant this waiver authority to community college governing boards.

(2) Before the board makes its report in December 1994, the board shall assess the extent of institutional compliance with the requirements of RCW 28B.15.740, 28B.15.455, and 28B.15.460. The 1994 report shall include a recommendation on whether to continue this waiver authority. [1989 c 340 § 5.]

28B.15.470 Gender equity—"Underrepresented gender class" defined. (1) As used in and for the limited purposes of RCW 28B.15.450 through 28B.15.465 and 28B.15.740, "underrepresented gender class" means female students or male students, where the ratio of participation of female or male students, respectively, in intercollegiate athletics is less than approximately the ratio of female to male students or male to female students, respectively, enrolled as undergraduates at an institution.

(2) As used in and for the limited purpose of *subsection 4(b) of this act, an "underrepresented gender class" in interscholastic athletics means female students or male students, where the ratio of participation of female or male students, respectively, in K-12 interscholastic athletics is less than approximately the ratio of female to male students or male to female students, respectively, enrolled in K-12 public schools in Washington. [1989 c 340 § 6.]

***Reviser's note:** The reference to "subsection 4(b) of this act" appears to be erroneous. The correct reference may be to subsection (3)(b) of section 4 of this act (RCW 28B.15.460).

28B.15.475 Gender equity—Construction—1989 c 340. Nothing in *this act shall be construed to excuse any institution from any more stringent requirement to achieve gender equity imposed by law, nor to permit any institution to decrease participation of any underrepresented gender class. [1989 c 340 § 7.]

***Reviser's note:** "This act" refers to the enactment of RCW 28B.15.450 through 28B.15.475 and the 1989 c 340 amendment to RCW 28B.15.740.

28B.15.480 Gender equity—Expiration date—1989 c 340. *This act shall expire on June 30, 1997. [1989 c 340 § 9.]

***Reviser's note:** See note following RCW 28B.15.475.

28B.15.502 Tuition and fees—Community colleges—Maximum services and activities fees—Fees for summer school and certain courses. Tuition fees and maximum services and activities fees at each community college for other than the summer term shall be set by the state board for community and technical colleges as follows:

(1) For full time resident students, the total tuition fees shall be twenty-three percent of the per student educational costs at the community colleges computed as provided in RCW 28B.15.067 and 28B.15.070: PROVIDED, That the building fees for each academic year shall be one hundred and twenty-seven dollars and fifty cents.

(2) For full time nonresident students, the total tuition fees shall be one hundred percent of the per student educational costs at the community colleges computed as provided in RCW 28B.15.067 and 28B.15.070: PROVIDED, That the building fees for each academic year shall be four hundred and three dollars and fifty cents.

(3) The governing boards of each of the state community colleges shall charge to and collect from each student a services and activities fee. Each governing board may increase the existing fee annually, consistent with budgeting procedures set forth in RCW 28B.15.045, by a percentage not to exceed the annual percentage increase in resident student tuition fees: PROVIDED, That such percentage increase shall not apply to that portion of the services and activities fee previously committed to the repayment of bonded debt. The services and activities fee committee provided for in RCW 28B.15.045 may initiate a request to the governing board for a fee increase.

(4) Tuition and services and activities fees consistent with subsection (3) of this section shall be set by the state board for community and technical colleges for summer school students unless the community college charges fees in accordance with RCW 28B.15.515.

Subject to the limitations of RCW 28B.15.910, each governing board may charge such fees for ungraded courses, noncredit courses, community services courses, and self-supporting courses as it, in its discretion, may determine, consistent with the rules and regulations of the state board for community and technical colleges.

Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act. [1992 c 231 § 11; 1991 c 353 § 2; 1985 c 390 § 25; 1982 1st ex.s. c 37 § 10; 1981 c 257 § 8.]

Effective date—1992 c 231: See note following RCW 28B.10.016.

Effective date—1991 c 353: See note following RCW 28B.15.515.

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability—1981 c 257: See note following RCW 28B.15.031.

28B.15.515 Community colleges—State-funded enrollment levels—Summer school—Variance—Excess enrollments. (1) The boards of trustees of the community college districts may operate summer schools on either a self-supporting or a state-funded basis.

If summer school is operated on a self-supporting basis, the fees charged shall be retained by the colleges, and shall be sufficient to cover the direct costs, which are instructional salaries and related benefits, supplies, publications, and records.

Community colleges that have self-supporting summer schools shall continue to receive general fund state support for vocational programs that require that students enroll in a four quarter sequence of courses that includes summer quarter due to clinical or laboratory requirements and for ungraded courses limited to adult basic education, vocational apprenticeship, aging and retirement, small business management, industrial first aid, and parent education.

(2)(a) The board of trustees of a community college district may permit the district's state-funded, full-time equivalent enrollment level, as provided in the operating budget appropriations act, to vary by plus or minus two percent each fiscal year unless otherwise authorized in the operating budget appropriations act. If the variance is above the state-funded level, the district may charge those students above the state-funded level a fee equivalent to the amount

of tuition and fees that are charged students enrolled in state-funded courses. These fees shall be retained by the colleges.

(b) Any community college that in 1990-91 has an enrollment above the state-funded level but below the authorized variance may increase its excess enrollments to within the variance.

(c) Community colleges that currently have excess enrollments more than the authorized variance, by means of enrollments that would have otherwise been eligible for state funding, shall reduce those excess enrollments to within the authorized variance by September 1, 1995, in at least equal annual reductions, commencing with the 1991-92 fiscal year.

(d) Except as permitted by (c) of this subsection, should the number of student-supported, full-time equivalent enrollments in any fiscal year fall outside the authorized variance, the college shall return by September 1st to the state general fund, an amount equal to the college's full average state appropriations per full-time equivalent student for such student-funded full-time equivalent outside the variance, unless otherwise provided in the operating budget appropriations act.

(3) The *state board for community college education shall ensure compliance with this section. [1991 c 353 § 1.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Effective date—1991 c 353: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect June 15, 1991." [1991 c 353 § 3.]

28B.15.520 Waiver of fees and nonresident tuition fees differential—Community colleges. Subject to the limitations of RCW 28B.15.910, the governing boards of the community colleges may:

(1) Waive all or a portion of tuition fees and services and activities fees for:

(a) Students nineteen years of age or older who are eligible for resident tuition and fee rates as defined in RCW 28B.15.012 through 28B.15.015 and who enroll in a course of study or program which will enable them to finish their high school education and obtain a high school diploma or certificate; and

(b) Children of any law enforcement officer or fire fighter who lost his or her life or became totally disabled in the line of duty while employed by any public law enforcement agency or full time or volunteer fire department in this state: PROVIDED, That such persons may receive the waiver only if they begin their course of study at a community college within ten years of their graduation from high school;

(2) Waive all or a portion of the nonresident tuition fees differential for:

(a) Nonresident students enrolled in a community college course of study or program which will enable them to finish their high school education and obtain a high school diploma or certificate. The waiver shall be in effect only for those courses which lead to a high school diploma or certificate; and

(b) Up to forty percent of the students enrolled in the regional education program for deaf students, subject to federal funding of such program.

(3) Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act. [1992 c 231 § 12; 1990 c 154 § 2; 1987 c 390 § 1. Prior: 1985 c 390 § 26; 1985 c 198 § 1; 1982 1st ex.s. c 37 § 8; 1979 ex.s. c 148 § 1; 1973 1st ex.s. c 191 § 2; 1971 ex.s. c 279 § 12; 1970 ex.s. c 59 § 8; 1969 ex.s. c 261 § 29. Formerly RCW 28.85.310, part.]

Effective date—1992 c 231: See note following RCW 28B.10.016.

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Effective date—1973 1st ex.s. c 191: See note following RCW 28B.15.380.

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

Severability—1970 ex.s. c 59: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1970 ex.s. c 59 § 11.] For codification of 1970 ex.s. c 59, see Codification Tables, Volume 0.

Severability—1969 ex.s. c 261: See note following RCW 28B.50.020.

Certificate of educational competence: RCW 28A.305.190.

"Totally disabled" defined for certain purposes: RCW 28B.15.385.

28B.15.522 Waiver of tuition and fees for long-term unemployed or underemployed persons—Community colleges. (1) The governing boards of the community colleges may waive all or a portion of the tuition and services and activities fees for persons under subsection (2) of this section pursuant to the following conditions:

(a) Such persons shall register for and be enrolled in courses on a space available basis and new course sections shall not be created as a result of the registration;

(b) Enrollment information on persons registered pursuant to this section shall be maintained separately from other enrollment information and shall not be included in official enrollment reports, nor shall such persons be considered in any enrollment statistics which would affect budgetary determinations; and

(c) Persons who enroll under this section shall have the same access to support services as do all other students and shall be subject to all course prerequisite requirements.

(2) A person is eligible for the waiver under subsection (1) of this section if the person:

(a) Meets the requirements for a resident student under RCW 28B.15.011 through 28B.15.015;

(b) Is twenty-one years of age or older;

(c) At the time of initial enrollment under subsection (1) of this section, has not attended an institution of higher education for the previous six months;

(d) Is not receiving or is not entitled to receive unemployment compensation of any nature under Title 50 RCW; and

(e) Has an income at or below the need standard established under chapter 74.04 RCW by the department of social and health services.

(3) The state board for community and technical colleges shall adopt rules to carry out this section.

(4) Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the

percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act. [1992 c 231 § 13; 1985 c 390 § 27; 1984 c 50 § 2.]

Effective date—1992 c 231: See note following RCW 28B.10.016.

Intent—1984 c 50: "The legislature finds that providing educational opportunities to the long-term unemployed and underemployed is a valuable incentive to these individuals to reestablish themselves as contributing members of society. To this end, the legislature finds that creating the opportunity for these people to attend the state's community colleges on a space available basis, without charge, will provide the impetus for self-improvement without drawing upon the limited resources of the state or its institutions." [1984 c 50 § 1.]

Severability—1984 c 50: "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." [1984 c 50 § 4.]

28B.15.524 Community college international student exchange program. The community college international student exchange program is hereby established. [1987 c 12 § 1.]

28B.15.526 Community college international student exchange program—Resident tuition for participants authorized. The legislature intends to permit the governing boards of the community colleges to charge resident tuition and fees for students of foreign nations who are participants in the international student exchange program. [1987 c 12 § 2.]

28B.15.527 Waiver of nonresident tuition fees differential for students of foreign nations—Community colleges. Subject to the limitations of RCW 28B.15.910, the governing boards of the community colleges may waive all or a portion of the nonresident tuition fees differential for undergraduate students of foreign nations as follows:

(1) Priority in the awarding of waivers shall be given to students on academic exchanges and students participating in special programs recognized through formal agreements between states, cities, or institutions;

(2) The waiver programs under this section shall promote reciprocal placements and waivers in foreign nations for Washington residents. The number of foreign students granted waivers through this program shall not exceed the number of that institution's own students enrolled in approved study programs abroad during the same period;

(3) No reciprocal placements shall be required for up to thirty students participating in the Georgetown University scholarship program funded by the United States agency for international development;

(4) Participation shall be limited to one hundred full-time foreign students each year.

(5) Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act. [1992 c 231 § 14; 1989 c 245 § 5; 1987 c 12 § 3.]

Effective date—1992 c 231: See note following RCW 28B.10.016.

Analyses—1989 c 245: See note following RCW 28B.15.070.

28B.15.535 Waiver of tuition and fees for full-time employees—Conditions—Guidelines. (1) The governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges may waive all or a portion of the tuition and services and activities fees for full-time employees of their respective institutions of higher education enrolled in said institutions' courses on a space available basis pursuant to the following conditions:

(a) Employees shall register for and be enrolled in courses on a space available basis, and no new course sections shall be created as a direct result of such registration;

(b) Enrollment information on employees registered on a space available basis shall be maintained separately from other enrollment information and shall not be included in official enrollment reports, nor shall persons enrolled pursuant to the provisions of this section be considered in any enrollment statistics which would affect budgetary determinations;

(c) Employees registering on a space available basis shall be charged a registration fee of not less than five dollars.

(2) The governing boards of the respective colleges and universities may waive all or a portion of tuition and services and activities fees for full-time intercollegiate center for nursing education, cooperative extension service, and agricultural research employees of Washington State University for such employees stationed off the Pullman, Whitman county campus: PROVIDED, That such waiver complies with the conditions spelled out in subsection (1) (a), (b), and (c) of this section.

(3) The governing boards of the state universities, the regional universities, and The Evergreen State College and the state board for community and technical colleges shall adopt guidelines for the implementation of institutional employee waivers granted pursuant to this section. [1992 c 231 § 15; 1985 c 390 § 28; 1983 c 220 § 1; 1979 c 82 § 2.]

Effective date—1992 c 231: See note following RCW 28B.10.016.

Severability—1979 c 82: See note following RCW 28B.15.380.

28B.15.540 Waiver of tuition and fees for residents sixty years of age or older—Limitations. Consistent with the regulations and procedures established by the governing boards of the state universities, the regional universities, and The Evergreen State College and the state board for community and technical colleges, each institution may for Washington residents who are sixty years of age or older:

(1) Waive, in whole or in part, the tuition and services and activities fees for students who qualify under this section and who are enrolled for credit, and

(2) Waive, in whole or in part, the tuition and services and activities fees for students who qualify under this section, but charge a nominal fee not to exceed five dollars per quarter, or semester, as the case may be, for such students who are enrolled on an audit basis: PROVIDED, That residents enrolling with fee exemptions under this section shall register for not more than two quarter or semester courses at one time on a space available basis, and no new course sections shall be created as a direct result of such registration: PROVIDED FURTHER, That such

waivers shall not be available to students who plan to use the course credits gained thereby for increasing credentials or salary schedule increases: PROVIDED FURTHER, That enrollment information concerning fee exemptions awarded under this section shall be maintained separately from other enrollment information but shall not be included in official enrollment reports: PROVIDED, That persons who enroll pursuant to provisions of this section shall not be considered for any purpose in determining student-teacher ratio, nor for any purpose relating to enrollment totals, nor any other statistic which would affect budgetary determinations. Persons enrolling under the provisions of this section shall have, in equal with all other students, access to course counseling services and shall be subject to all course prerequisite requirements. [1992 c 231 § 16; 1985 c 390 § 29; 1975 1st ex.s. c 157 § 2.]

Effective date—1992 c 231: See note following RCW 28B.10.016.

Purpose—1975 1st ex.s. c 157: "In recognition of the worthwhile goal of making education a life-long process, it is the declared desire of the legislature to promote the availability of postsecondary education for the state's older residents." [1975 1st ex.s. c 157 § 1.]

28B.15.543 Waiver of tuition and fees for recipients of the Washington scholars award—Qualifications. Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges shall waive tuition and service and activities fees for recipients of the Washington scholars award under RCW 28A.600.100 through 28A.600.150 who received their awards before June 30, 1992. The governing boards may waive all or a portion of tuition and services and activities fees for those recipients of the Washington scholars award who received their awards after June 30, 1992. The waivers shall be used only for undergraduate studies. To qualify for the waiver, recipients shall enter the college or university within three years of high school graduation and maintain a minimum grade point average at the college or university equivalent to 3.30. Students shall be eligible for waivers for a maximum of twelve quarters or eight semesters and may transfer among state-supported institutions of higher education during that period and continue to have the tuition and services and activities fees waived by the state-supported institution of higher education that the student attends. Should the student's cumulative grade point average fall below 3.30 during the first three quarters or two semesters, that student may petition the higher education coordinating board which shall have the authority to establish a probationary period until such time as the student's grade point average meets required standards.

Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act. [1992 c 231 § 17; 1990 c 33 § 558; 1987 c 465 § 2. Prior: 1985 c 390 § 30; 1985 c 370 § 68; 1985 c 341 § 16; 1984 c 278 § 17.]

Effective date—1992 c 231: See note following RCW 28B.10.016.

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Application—1987 c 465 § 2: "The amendments to RCW 28B.15.543 by section 2, chapter 465, Laws of 1987 shall apply to persons

holding the Washington scholars award as of July 26, 1987, as well as persons holding the award after July 26, 1987." [1987 c 465 § 3.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability—1984 c 278: See note following RCW 28A.185.010.

28B.15.545 Waiver of tuition and fees for recipients of the Washington award for vocational excellence. Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges shall waive tuition and services and activities fees for those recipients of the Washington award for vocational excellence established under RCW 28C.04.520 through 28C.04.540 who received their awards before June 30, 1992. The governing boards may waive all or a portion of tuition and services and activities fees for those recipients of the Washington award for vocational excellence who received their awards after June 30, 1992. Each recipient shall not receive a waiver for more than six quarters or four semesters. To qualify for the waiver, recipients shall enter the college or university within three years of receiving the award. A minimum grade point average at the college or university equivalent to 3.00, or an above-average rating at a technical college, shall be required in the first year to qualify for the second-year waiver. The tuition waiver shall be granted for undergraduate studies only.

Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act. [1992 c 231 § 18; 1987 c 231 § 1; 1985 c 390 § 31; 1984 c 267 § 6.]

Effective date—1992 c 231: See note following RCW 28B.10.016.

28B.15.546 Second-year waiver of tuition and fees for recipients of the Washington award for vocational excellence. Students receiving the Washington award for vocational excellence in 1987 and thereafter are eligible for a second-year waiver. [1987 c 231 § 5.]

28B.15.555 Waiver of tuition and fees for students of foreign nations—Intent. The legislature intends to permit the governing boards of the four-year institutions of higher education to waive tuition and fees for certain students of foreign nations. To the greatest extent possible, students chosen for these waivers and for the institutions' own approved study abroad programs shall reflect the range of socioeconomic and ethnic characteristics of the students' institutions and native countries. [1986 c 232 § 1.]

28B.15.556 Waiver of tuition and fees for students of foreign nations—Authorized—Limitations. Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, and The Evergreen State College may waive all or a portion of the tuition, and services and activities fees for undergraduate or graduate students of foreign nations subject to the following limitations:

(1) No more than the equivalent of one hundred waivers may be awarded to undergraduate or graduate students of foreign nations at each of the two state universities;

(2) No more than the equivalent of twenty waivers may be awarded to undergraduate or graduate students of foreign nations at each of the regional universities and The Evergreen State College;

(3) Priority in the awarding of waivers shall be given to students on academic exchanges or academic special programs sponsored by recognized international educational organizations; and

(4) An undergraduate or graduate student of a foreign nation receiving a waiver under this section is not eligible for any other waiver.

The waiver programs under this section, to the greatest extent possible, shall promote reciprocal placements and waivers in foreign nations for Washington residents. The number of waivers awarded by each institution shall not exceed the number of that institution's own students enrolled in approved study programs abroad during the same period.

(5) Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act. [1992 c 231 § 19; 1986 c 232 § 2.]

Effective date—1992 c 231: See note following RCW 28B.10.016.

28B.15.558 Waiver of tuition and fees for state employees. (1) The governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges may waive all or a portion of the tuition and services and activities fees for state employees as defined under subsection (2) of this section pursuant to the following conditions:

(a) Such state employees shall register for and be enrolled in courses on a space available basis and no new course sections shall be created as a result of the registration;

(b) Enrollment information on state employees registered pursuant to this section shall be maintained separately from other enrollment information and shall not be included in official enrollment reports, nor shall such state employees be considered in any enrollment statistics which would affect budgetary determinations; and

(c) State employees registering on a space available basis shall be charged a registration fee of not less than five dollars.

(2) For the purposes of this section, "state employees" means permanent full-time employees in classified service under chapters 28B.16 and 41.06 RCW. [1992 c 231 § 20; 1990 c 88 § 1.]

Effective date—1992 c 231: See note following RCW 28B.10.016.

28B.15.600 Refunds or cancellation of fees. The boards of regents of the state's universities and the boards of trustees of the regional universities and The Evergreen State College and community colleges may refund or cancel in full the tuition and services and activities fees if the student withdraws from a university or college course or program prior to the sixth day of instruction of the quarter or semester for which said fees have been paid or are due. If the student withdraws on or after the sixth day of instruction,

said boards of regents and trustees may refund or cancel up to one-half of said fees, provided such withdrawal occurs within the first thirty calendar days following the beginning of instruction. The regents or trustees of the respective universities and colleges may adopt rules for the refund of tuition and fees for courses or programs that begin after the start of the regular quarter or semester. Said boards of regents and trustees may adopt rules to comply with RCW 28B.15.623 and may extend the refund or cancellation period for students who withdraw for medical reasons or who are called into the military service of the United States.

Said boards of regents and trustees may refund other fees pursuant to such rules as they may prescribe. [1991 c 164 § 5; 1985 c 390 § 32; 1983 c 256 § 1; 1977 ex.s. c 169 § 40; 1973 1st ex.s. c 46 § 2; 1971 ex.s. c 279 § 15; 1969 ex.s. c 223 § 28B.15.600. Prior: 1963 c 89 § 1. Formerly RCW 28.76.430.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Severability—1973 1st ex.s. c 46: See note following RCW 28B.10.704.

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

28B.15.610 Voluntary fees of students. The provisions of this chapter shall not apply to or affect any student fee or charge which the students voluntarily maintain upon themselves for student purposes only. [1969 ex.s. c 223 § 28B.15.610. Prior: 1915 c 66 § 8; RRS § 4552. Formerly RCW 28.77.065.]

28B.15.615 Exemption from resident operating fees for persons holding graduate service appointments. Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities and the regional universities may exempt the following students from paying all or a portion of the resident operating fee: Students granted a graduate service appointment, designated as such by the institution, involving not less than twenty hours of work per week. The exemption shall be for the term of the appointment. The stipend paid to persons holding graduate student appointments from nonstate funds shall be reduced and the institution reimbursed from such funds in an amount equal to the resident operating fee which funds shall be transmitted to the general fund.

Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act. [1992 c 231 § 21; 1984 c 105 § 1.]

Effective date—1992 c 231: See note following RCW 28B.10.016.

28B.15.620 Exemption from tuition and fees increase at institutions of higher learning—Vietnam veterans—Expiration of section. Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges may exempt veterans of the Vietnam conflict who have served in the southeast Asia theater of operations from the payment of any increase in tuition and fees otherwise applicable to any other resident

or nonresident student. In such cases, the veteran shall not be required to pay more than the total amount of tuition and fees paid by veterans of the Vietnam conflict on October 1, 1977: PROVIDED, That for the purposes of this exemption, "veterans of the Vietnam conflict" shall be those persons who have been on active federal service as a member of the armed military or naval forces of the United States between a period commencing August 5, 1964, and ending on May 7, 1975, and who qualify as a resident student under RCW 28B.15.012, and who enrolled in state institutions of higher education on or before May 7, 1990. This section shall expire June 30, 1995.

Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act. [1992 c 231 § 22; 1989 c 306 § 4; 1983 c 307 § 1; 1979 ex.s. c 83 § 1; 1977 ex.s. c 322 § 9; 1972 ex.s. c 149 § 3; 1971 ex.s. c 279 § 22.]

Effective date—1992 c 231: See note following RCW 28B.10.016.

Severability—1977 ex.s. c 322: See note following RCW 28B.15.065.

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

28B.15.623 Persian Gulf veterans—Reenrollment options at state institutions of higher education—Expiration of section. Institutions of higher education, as defined in RCW 28B.10.016, and state funded *vocational-technical institutes shall provide eligible students as defined in RCW 28B.10.017 with two options. At the option of the eligible student, the institution shall either refund the total tuition and fees paid by the eligible student for the applicable academic term, or shall readmit the eligible student for one academic term under the following conditions:

- (1) The eligible student shall be exempt from the payment of additional tuition and fees;
- (2) No new course sections shall be created as a direct result of students receiving the waivers;
- (3) Enrollment information on students receiving the waivers shall be maintained separately from other enrollment information and shall not be considered in any enrollment statistics that would affect budgetary determinations; and
- (4) Institutions may apply to the legislature for a supplemental appropriation to cover the cost of serving any student who elects to exercise a reenrollment option under this section. [1991 c 164 § 2.]

*Reviser's note: "Vocational-technical institutes" designated "technical colleges" by 1991 c 238. See RCW 28B.50.030.

Expiration date—1991 c 164 § 2: "Section 2 of this act shall expire June 30, 1995." [1991 c 164 § 11.]

28B.15.625 Persian Gulf veterans—Private higher education institutions—Tuition refund encouraged. Private vocational schools and private higher education institutions are encouraged to provide students deployed either to the Persian Gulf combat zone, as designated by the president of the United States through executive order, or in another location in support of the Persian Gulf combat zone, with the choice of tuition refunds or one free term, as provided under RCW 28B.10.017 and 28B.15.623 for public higher education institutions. [1991 c 164 § 10.]

28B.15.628 Exemption from tuition and fees increases at public institutions of higher education—Persian Gulf veterans—Expiration of section. Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges may exempt veterans of the Persian Gulf combat zone from increases in tuition and fees that occur during and after their period of service. In such cases, the veteran shall not be required to pay more than the total amount of tuition and fees established for the 1990-91 academic year, if the veteran could have qualified as a Washington resident student under RCW 28B.15.012(2), had he or she been enrolled as a student on August 1, 1990, and if the veteran's adjusted gross family income as most recently reported to the internal revenue service does not exceed Washington state's median family income as established by the federal bureau of the census. For the purposes of this section, "a veteran of the Persian Gulf combat zone" means a person who during any portion of calendar year 1991, served in active federal service as a member of the armed military or naval forces of the United States in a combat zone as designated by the president of the United States by executive order.

Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act. [1992 c 231 § 23; 1991 c 228 § 14.]

Effective date—1992 c 231: See note following RCW 28B.10.016.

Intent—1991 c 228: "It is the intent of the legislature to enable Washington residents who have actively served in the Persian Gulf combat zone to attend any Washington institution of higher education at 1990 tuition rates." [1991 c 228 § 13.]

Expiration date—1991 c 228 §§ 13, 14: "Sections 13 and 14 of this act shall expire on June 30, 1994." [1991 c 228 § 15.]

28B.15.650 Use of state bank credit cards. See RCW 28B.10.290.

28B.15.700 Nonresident tuition fees—Exemption under Western regional higher education compact contracts. See RCW 28B.70.050.

28B.15.725 Exchange agreements for undergraduate upper division students—Resident tuition rates—Limitations. Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, and The Evergreen State College may enter into undergraduate upper division student exchange agreements with comparable public four-year institutions of higher education of other states and agree to exempt participating undergraduate upper division students from payment of all or a portion of the nonresident tuition fees differential subject to the following restrictions:

- (1) In any given academic year, the number of students receiving a waiver at a state institution shall not exceed the number of that institution's students receiving nonresident tuition waivers at participating out-of-state institutions. Waiver imbalances that may occur in one year shall be offset in the year immediately following.

(2) Undergraduate upper division student participation in an exchange program authorized by this section is limited to one academic year.

Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act. [1992 c 231 § 24; 1989 c 290 § 2.]

Effective date—1992 c 231: See note following RCW 28B.10.016.

Intent—1989 c 290: "The legislature recognizes that a unique educational experience can result from an undergraduate upper division student attending an out-of-state institution. It also recognizes that some Washington residents may be unable to pursue such out-of-state enrollment owing to their limited financial resources and the higher cost of nonresident tuition. The legislature intends to facilitate expanded nonresident undergraduate upper division enrollment opportunities for residents of the state by authorizing the governing boards of the four-year institutions of higher education to enter into exchange programs with other states' comparable public four-year institutions with comparable programs wherein the participating institutions agree that visiting undergraduate upper division students will pay resident tuition rates of the host institutions." [1989 c 290 § 1.]

28B.15.730 Waiver of nonresident tuition fees differential—Washington/Oregon reciprocity program. Subject to the limitations of RCW 28B.15.910, the state board for community and technical colleges and the governing boards of the state universities, the regional universities, the community colleges, and The Evergreen State College may waive all or a portion of the nonresident tuition fees differential for residents of Oregon, upon completion of and to the extent permitted by an agreement between the higher education coordinating board and appropriate officials and agencies in Oregon granting similar waivers for residents of the state of Washington.

Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act. [1992 c 231 § 25; 1985 c 370 § 69; 1983 c 104 § 1; 1979 c 80 § 1.]

Effective date—1992 c 231: See note following RCW 28B.10.016.

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability—1979 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." [1979 c 80 § 5.]

28B.15.732 Washington/Oregon reciprocity tuition and fee program—Reimbursement when greater net revenue loss. Prior to January 1 of each odd-numbered year the higher education coordinating board, in cooperation with the *state board for community college education, and in consultation with appropriate agencies and officials in the state of Oregon, shall determine for the purposes of RCW 28B.15.730 the number of students for whom nonresident tuition and fees have been waived for the first academic year of the biennium and the fall term of the second academic year, and make an estimate of the number of such students for the remainder of the second academic year, and the difference between the aggregate amount of tuition and fees that would have been paid to the respective states by residents of the other state had such waivers not been made,

and the aggregate amount of tuition and fees paid by residents of the other state. Should the board determine that the state of Oregon has experienced a greater net tuition and fee revenue loss than institutions in Washington, it shall pay from funds appropriated for this purpose to the appropriate agency or institutions in Oregon an amount determined by subtracting the net tuition and fee revenue loss of Washington from the net tuition and fee revenue loss of Oregon, minus twenty-five thousand dollars for each year of the biennium: PROVIDED, That appropriate officials in the state of Oregon agree to make similar restitution to the state of Washington should the net tuition and fee revenue loss in Washington be greater than that in Oregon. [1985 c 370 § 70; 1979 c 80 § 2.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability—1979 c 80: See note following RCW 28B.15.730.

28B.15.734 Washington/Oregon reciprocity tuition and fee program—Implementation agreement. The higher education coordinating board may enter into an agreement with appropriate officials or agencies in Oregon to implement the provisions of RCW 28B.15.730 through 28B.15.734. [1985 c 370 § 71; 1979 c 80 § 3.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability—1979 c 80: See note following RCW 28B.15.730.

28B.15.736 Washington/Oregon reciprocity tuition and fee program—Program review. By January 10 of each odd-numbered year, the higher education coordinating board shall review the costs and benefits of this program and shall transmit copies of their review to the governor and the appropriate policy and fiscal committees of the legislature. [1985 c 370 § 72; 1983 c 104 § 2; 1979 c 80 § 4.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability—1979 c 80: See note following RCW 28B.15.730.

28B.15.740 Limitation on total tuition and fee waivers. Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges may waive all or a portion of tuition and fees subject to the following restrictions:

(1) Except as provided in subsection (2) of this section, the total dollar amount of tuition and fee waivers awarded by the governing boards shall not exceed four percent, except for the community colleges considered as a whole, such amount shall not exceed three percent of an amount determined by estimating the total collections from tuition and services and activities fees had no such waivers been made, and deducting the portion of that total amount that is attributable to the difference between resident and nonresident fees: PROVIDED, That at least three-fourths of the dollars waived shall be for needy students who are eligible for resident tuition and fee rates pursuant to RCW 28B.15.012 through 28B.15.015: PROVIDED FURTHER, That the remainder of the dollars waived, not to exceed one-

fourth of the total, may be applied to other students at the discretion of the governing boards, except on the basis of participation in intercollegiate athletic programs: PROVIDED FURTHER, That the waivers for undergraduate and graduate students of foreign nations under RCW 28B.15.556 are not subject to the limitation under this section.

(2) In addition to the tuition and fee waivers provided in subsection (1) of this section and subject to the provisions of RCW 28B.15.455 and 28B.15.460, a total dollar amount of tuition and fee waivers awarded by any state university, regional university, or state college under this chapter, not to exceed one percent, as calculated in subsection (1) of this section, may be used for the purpose of achieving or maintaining gender equity in intercollegiate athletic programs. At any institution that has an underrepresented gender class in intercollegiate athletics, any such waivers shall be awarded:

(a) First, to members of the underrepresented gender class who participate in intercollegiate athletics, where such waivers result in saved or displaced money that can be used for athletic programs for the underrepresented gender class. Such saved or displaced money shall be used for programs for the underrepresented gender class; and

(b) Second, (i) to nonmembers of the underrepresented gender class who participate in intercollegiate athletics, where such waivers result in saved or displaced money that can be used for athletic programs for members of the underrepresented gender class. Such saved or displaced money shall be used for programs for the underrepresented gender class; or (ii) to members of the underrepresented gender class who participate in intercollegiate athletics, where such waivers do not result in any saved or displaced money that can be used for athletic programs for members of the underrepresented gender class.

(3) Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act. [1992 c 231 § 26; 1989 c 340 § 2; 1986 c 232 § 3; 1985 c 390 § 33; 1982 1st ex.s. c 37 § 9; 1980 c 62 § 1; 1979 ex.s. c 262 § 1.]

Effective date—1992 c 231: See note following RCW 28B.10.016.

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

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.]

28B.15.750 Waiver of nonresident tuition fees differential—Washington/Idaho reciprocity program. Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, and The Evergreen State College and the state board for community and technical colleges may waive all or a portion of the nonresident tuition fees differential for residents of Idaho, upon completion of and to the extent permitted by an agreement between the higher education coordinating board and appropriate officials and agencies in Idaho granting similar waivers for residents of the state of Washington.

Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the

percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act. [1992 c 231 § 27; 1985 c 370 § 73; 1983 c 166 § 1.]

Effective date—1992 c 231: See note following RCW 28B.10.016.

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

28B.15.752 Washington/Idaho reciprocity tuition and fee program—Reimbursement when greater net revenue loss. Prior to January 1 of each odd-numbered year, the higher education coordinating board, in cooperation with the *state board for community college education and in consultation with appropriate agencies and officials in the state of Idaho, shall determine for the purposes of RCW 28B.15.750 the number of students for whom nonresident tuition and fees have been waived for the first academic year of the biennium and the fall term of the second academic year, and make an estimate of the number of such students for the remainder of the second academic year, and the difference between the aggregate amount of tuition and fees that would have been paid to the respective states by residents of the other state had such waivers not been made, and the aggregate amount of tuition and fees paid by residents of the other state. Should the board determine that the state of Idaho has experienced a greater net tuition and fee revenue loss than institutions in Washington, it shall pay from funds appropriated for this purpose to the appropriate agency or institution in Idaho an amount determined by subtracting the net tuition and fee revenue loss of Washington from the net tuition and fee revenue loss of Idaho, minus twenty-five thousand dollars for each year of the biennium if the appropriate officials in the state of Idaho agree to make similar restitution to the state of Washington should the net tuition and fee revenue loss in Washington be greater than that in Idaho. [1985 c 370 § 74; 1983 c 166 § 2.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

28B.15.754 Washington/Idaho reciprocity tuition and fee program—Implementation agreement—Program review. The higher education coordinating board may enter into an agreement with appropriate officials or agencies in the state of Idaho to implement RCW 28B.15.750 and 28B.15.752. By January 10 of each odd-numbered year, the board shall review the costs and benefits of any agreement entered into under RCW 28B.15.750 and shall transmit copies of their review to the governor and the appropriate policy and fiscal committees of the legislature. [1987 c 446 § 1; 1985 c 370 § 75; 1983 c 166 § 3.]

Effective date—1987 c 446: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1987." [1987 c 446 § 5.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

28B.15.756 Waiver of nonresident tuition fees differential—Washington/British Columbia reciprocity

program. Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, and The Evergreen State College and the state board for community and technical colleges may waive all or a portion of the nonresident tuition fees differential for residents of the Canadian province of British Columbia, upon completion of and to the extent permitted by an agreement between the higher education coordinating board and appropriate officials and agencies in the Canadian province of British Columbia providing for enrollment opportunities for residents of the state of Washington without payment of tuition or fees in excess of those charged to residents of British Columbia.

Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act. [1992 c 231 § 28; 1987 c 446 § 2; 1985 c 370 § 76; 1983 c 166 § 4.]

Effective date—1992 c 231: See note following RCW 28B.10.016.

Effective date—1987 c 446: See note following RCW 28B.15.754.

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

28B.15.758 Washington/British Columbia reciprocity tuition and fee program—Implementation agreement—Program review. The higher education coordinating board may enter into an agreement with appropriate officials or agencies in the Canadian province of British Columbia to implement RCW 28B.15.756. The agreement should provide for a balanced exchange of enrollment opportunities, without payment of excess tuition or fees, for residents of the state of Washington or the Canadian province of British Columbia. By January 10 of each odd-numbered year, the board shall review the costs and benefits of any agreement entered into under RCW 28B.15.756 and shall transmit copies of their review to the governor and the appropriate policy and fiscal committees of the legislature. [1987 c 446 § 3; 1985 c 370 § 77; 1983 c 166 § 5.]

Effective date—1987 c 446: See note following RCW 28B.15.754.

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

28B.15.760 Loan program for mathematics and science teachers—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 28B.15.762 and 28B.15.764.

(1) "Institution of higher education" or "institution" means a college or university in the state of Washington which is a member institution of an accrediting association recognized as such by rule of the higher education coordinating board.

(2) "Board" means the higher education coordinating board.

(3) "Eligible student" means a student registered for at least ten credit hours or the equivalent and demonstrates achievement of a 3.00 grade point average for each academic year, who is a resident student as defined by RCW 28B.15.012 through 28B.15.015, who is a "needy student" as defined in RCW 28B.10.802, and who has a declared major in a program leading to a degree in teacher education in a

field of science or mathematics, or a certificated teacher who meets the same credit hour and "needy student" requirements and is seeking an additional degree in science or mathematics.

(4) "Public school" means a middle school, junior high school, or high school within the public school system referred to in Article IX of the state Constitution.

(5) "Forgiven" or "to forgive" means to collect service as a teacher in a field of science or mathematics at a public school in the state of Washington in lieu of monetary payment.

(6) "Satisfied" means paid-in-full.

(7) "Borrower" means an eligible student who has received a loan under RCW 28B.15.762. [1985 c 370 § 79; 1983 1st ex.s. c 74 § 1.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability—1983 1st ex.s. c 74: "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." [1983 1st ex.s. c 74 § 6.]

28B.15.762 Loan program for mathematics and science teachers—Terms and conditions—Collection—Disposition of payments—Rules. (1) The board may make long-term loans to eligible students at institutions of higher education from the funds appropriated to the board for this purpose. The amount of any such loan shall not exceed the demonstrated financial need of the student or two thousand five hundred dollars for each academic year whichever is less, and the total amount of such loans to an eligible student shall not exceed ten thousand dollars. The interest rates and terms of deferral of such loans shall be consistent with the terms of the guaranteed loan program established by 20 U.S.C. Sec. 1701 et seq. The period for repaying the loan principal and interest shall be ten years with payments accruing quarterly commencing nine months from the date the borrower graduated. The entire principal and interest of each loan payment shall be forgiven for each payment period in which the borrower teaches science or mathematics in a public school in this state until the entire loan is satisfied or the borrower ceases to teach science or mathematics at a public school in this state. Should the borrower cease to teach science or mathematics at a public school in this state before the time in which the principal and interest on the loan are satisfied, payments on the unsatisfied portion of the principal and interest on the loan shall begin the next payment period and continue until the remainder of the loan is paid.

(2) The board is responsible for collection of loans made under subsection (1) of this section and shall exercise due diligence in such collection, maintaining all necessary records to insure that maximum repayments are made. Collection and servicing of loans under subsection (1) of this section shall be pursued using the full extent of the law, including wage garnishment if necessary, and shall be performed by entities approved for such servicing by the Washington student loan guaranty association or its successor agency. The board is responsible to forgive all or parts of such loans under the criteria established in subsection (1) of this section and shall maintain all necessary records of forgiven payments.

(3) Receipts from the payment of principal or interest or any other subsidies to which the board as lender is entitled, which are paid by or on behalf of borrowers under subsection (1) of this section, shall be deposited with the higher education coordinating board and shall be used to cover the costs of making the loans under subsection (1) of this section, maintaining necessary records, and making collections under subsection (2) of this section. The board shall maintain accurate records of these costs, and all receipts beyond those necessary to pay such costs shall be used to make loans to eligible students.

(4) The board shall adopt necessary rules to implement this section. [1985 c 370 § 80; 1983 1st ex.s. c 74 § 2.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability—1983 1st ex.s. c 74: See note following RCW 28B.15.760.

28B.15.764 Loan program for mathematics and science teachers—Cooperation by board and institutions of higher education. The board and institutions of higher education shall work cooperatively to implement RCW 28B.15.762 and to publicize this program to eligible students. [1985 c 370 § 81; 1983 1st ex.s. c 74 § 3.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability—1983 1st ex.s. c 74: See note following RCW 28B.15.760.

28B.15.766 Loan program for mathematics and science teachers—Duration—Legislative budget committee review. No loans shall be made after August 23, 1989, until the program is reviewed by the legislative budget committee and is reenacted by the legislature. [1983 1st ex.s. c 74 § 4.]

Severability—1983 1st ex.s. c 74: See note following RCW 28B.15.760.

28B.15.790 Effective communication—Intent. The legislature finds that the quality of undergraduate education is enhanced by association with graduate assistants from other countries who can effectively communicate their knowledge and diverse cultural backgrounds.

It is the intent of the legislature to assist the institutions in their effort to improve the quality of undergraduate education at the state's four-year colleges and universities. Attainment of an excellent education is facilitated when communication is clear, concise, sensitive to cultural differences, and demonstrative of proven pedagogical skills. It is the further intent of the legislature to assure students and parents that graduate teaching assistants at our state institutions of higher education are able to communicate effectively and understandably with undergraduate students. [1991 c 228 § 1.]

28B.15.792 Effective communication—Principles. The Washington state legislature affirms the following principles:

(1) Washington's college and university students are entitled to excellent instruction at the state's institutions of higher education. Excellent education requires the ability to

communicate effectively in college classrooms and laboratories.

(2) The presence of students, faculty, and staff from other countries on Washington's college campuses enriches the educational experience of Washington's students and enhances scholarship and research at the state's colleges and universities.

(3) With the exception of courses designed to be taught primarily in a foreign language, undergraduate students shall be provided with classroom instruction, laboratory instruction, clinics, seminars, studios, and other participatory and activity courses by a person fluent in both the spoken and written English language.

(4) Persons of all nationalities, races, religions, and ethnic backgrounds are welcome and valued in the state of Washington. [1991 c 228 § 2.]

28B.15.794 Effective communication—Implementation of principles. The governing board of each state university, regional university, state college, and community college shall ensure that the principles in *section 1 of this act are implemented at its institution of higher education. [1991 c 228 § 3.]

***Reviser's note:** A translation of "section 1 of this act" is RCW 28B.15.790. RCW 28B.15.792 was apparently intended.

28B.15.796 Effective communication—Task force to improve communication and teaching skills of faculty and teaching assistants. The council of presidents, in consultation with the higher education coordinating board, shall convene a task force of representatives from the four-year universities and colleges. The task force shall:

(1) Review institutional policies and procedures designed to ensure that faculty and teaching assistants are able to communicate effectively with undergraduate students in classrooms and laboratories;

(2) Research methods and procedures designed to improve the communication and teaching skills of any person funded by state money who instructs undergraduate students in classrooms and laboratories;

(3) Share the results of that research with each participating university and college; and

(4) Work with each participating university and college to assist the institution in its efforts to improve the communication and pedagogical skills of faculty and teaching assistants instructing undergraduate students. [1991 c 228 § 4.]

28B.15.800 Pledged bond retirement funds to be set aside from tuition and fees—1977 ex.s. c 322. Notwithstanding any other section of this 1977 amendatory act, the boards of regents and trustees of the respective institutions of higher education shall set aside from tuition and fees charged in each schedule an amount heretofore pledged and necessary for the purposes of bond retirement until such time as any such debt has been satisfied. [1985 c 390 § 34; 1977 ex.s. c 322 § 15.]

Reviser's note: For translation of phrase "this 1977 amendatory act" see note following RCW 28B.15.065.

Severability—1977 ex.s. c 322: See note following RCW 28B.15.065.

28B.15.805 Pledged bond retirement funds to be set aside from tuition and fees—1981 c 257. Notwithstanding any other provision of this amendatory act, the boards of regents and trustees of the respective institutions of higher education shall set aside from tuition and fees charged in each schedule an amount heretofore pledged and necessary for the purposes of bond retirement until such time as any such debt has been satisfied. [1981 c 257 § 10.]

Reviser's note: For translation of "this amendatory act" [1981 c 257], see Codification Tables, Volume 0.

Severability—1981 c 257: See note following RCW 28B.15.031.

28B.15.820 Institutional long-term loan fund—Created—Use—Deposits in—Loan terms and conditions—Collection—Short-term interim loans authorized—Use for locally-administered financial aid programs—Rules and regulations. (1) Each institution of higher education shall deposit two and one-half percent of revenues collected from tuition and services and activities fees in an institutional long-term loan fund which is hereby created and which shall be held locally. Moneys in such fund shall be used to make guaranteed loans to eligible students except as provided for in subsection (10) of this section.

(2) An "eligible student" for the purposes of this section is a student registered for at least six credit hours or the equivalent, who is eligible for resident tuition and fee rates as defined in RCW 28B.15.012 through 28B.15.015, and who is a "needy student" as defined in RCW 28B.10.802.

(3) The amount of the loans made under subsection (1) of this section shall not exceed the demonstrated financial need of the student. Each institution shall establish loan terms and conditions which shall be consistent with the terms of the guaranteed loan program established by 20 U.S. Code Section 1071 et seq., as now or hereafter amended. All loans made shall be guaranteed by the Washington student loan guaranty association or its successor agency. Institutions are hereby granted full authority to operate as an eligible lender under the guaranteed loan program.

(4) Before approving a guaranteed loan, each institution shall analyze the ability of the student to repay the loan based on factors which include, but are not limited to, the student's accumulated total education loan burdens and the employment opportunities and average starting salary characteristics of the student's chosen fields of study. The institution shall counsel the student on the advisability of acquiring additional debt, and on the availability of other forms of financial aid.

(5) Each institution is responsible for collection of loans made under subsection (1) of this section and shall exercise due diligence in such collection, maintaining all necessary records to insure that maximum repayments are made. Institutions shall cooperate with other lenders and the Washington student loan guaranty association, or its successor agency, in the coordinated collection of guaranteed loans, and shall assure that the guarantability of the loans is not violated. Collection and servicing of loans under subsection (1) of this section shall be performed by entities approved for such servicing by the Washington student loan guaranty association or its successor agency: PROVIDED, That institutions be permitted to perform such servicing if

specifically recognized to do so by the Washington student loan guaranty association or its successor agency. Collection and servicing of loans made by community colleges under subsection (1) of this section shall be coordinated by the *state board for community college education and shall be conducted under procedures adopted by such state board.

(6) Receipts from payment of interest or principal or any other subsidies to which institutions as lenders are entitled, which are paid by or on behalf of borrowers of funds under subsection (1) of this section, shall be deposited in each institution's general local fund and shall be used to cover the costs of making the loans under subsection (1) of this section and maintaining necessary records and making collections under subsection (5) of this section: PROVIDED, That such costs shall not exceed five percent of aggregate outstanding loan principle. Institutions shall maintain accurate records of such costs, and all receipts beyond those necessary to pay such costs, shall be used for the support of the institution's operating budget.

(7) The boards of regents of the state universities, the boards of trustees of the regional universities and The Evergreen State College, and the *state board for community college education, on behalf of the community colleges, shall each adopt necessary rules and regulations to implement this section.

(8) Lending activities under this section shall be directed toward students who would not normally have access to educational loans from private financial institutions in Washington state, and maximum use shall be made of secondary markets in the support of loan consolidation.

(9) Short-term interim loans, not to exceed one hundred twenty days, may be made from the institutional long-term loan fund to students eligible for guaranteed student loans and whose receipt of such loans is pending. Such short-term loans shall not be subject to the guarantee restrictions or the constraints of federal law imposed by subsection (3) of this section. No such loan shall be made to any student who is known by the institution to be in default or delinquent in the payment of any outstanding student loan.

(10) Any moneys deposited in the institutional long-term loan fund which are not used in making long or short term loans or transferred to institutional operating budgets may be used by the institution for locally-administered financial aid programs for needy students, such as need-based institutional employment programs or need-based tuition and fee waiver programs. These funds shall be used in addition to and not to replace institutional funds which would otherwise support these locally-administered financial aid programs. Priority in the use of these funds shall be given to needy students who have accumulated excessive educational loan burdens. An excessive educational loan burden is a burden that will be difficult to repay given employment opportunities and average starting salaries in the student's chosen fields of study. [1985 c 390 § 35; 1983 1st ex.s. c 64 § 1; 1982 1st ex.s. c 37 § 13; 1981 c 257 § 9.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability—1981 c 257: See note following RCW 28B.15.031.

28B.15.824 Institutional operating fees accounts.

An account is established in the state treasury for each public four-year institution of higher education and the community colleges as a whole, known as the "(institution's name or "community colleges") operating fees account." The account shall consist of all operating fees, as defined in this chapter, collected by the institution, except that two and one-half percent of moneys received as operating fees shall be deposited into the institution [institutional] long-term loan fund under RCW 28B.15.820. Beginning July 1, 1992, all operating fees revenue shall be transferred to the state treasurer, consistent with RCW 28B.15.031, to be credited to the appropriate higher education operating fees account. [1992 c 231 § 36.]

Effective date—1992 c 231: See note following RCW 28B.10.016.

28B.15.900 "State universities," "regional universities," "state college," "institutions of higher education," and "postsecondary institutions" defined. See RCW 28B.10.016.

28B.15.910 Limitation on total operating fee revenue waived, exempted, or reduced. (1) Except for revenue waived under programs listed in subsection (3) of this section, and unless otherwise expressly provided in the omnibus state appropriations act, the total amount of operating fee revenue waived, exempted, or reduced by a state university, a regional university, The Evergreen State College, or the community colleges as a whole, shall not exceed the percentage of total net authorized operating fees revenue set forth below. As used in this section, "net authorized operating fees revenue" means the estimated gross operating fees revenue as estimated under RCW 82.33.020, before granting any waivers, minus obligations under RCW 28B.15.820. This limitation applies to all tuition waiver programs established before or after July 1, 1992.

(a) University of Washington	21 percent
(b) Washington State University	20 percent
(c) Eastern Washington University	11 percent
(d) Central Washington University	8 percent
(e) Western Washington University	10 percent
(f) The Evergreen State College	6 percent
(g) Community colleges as a whole	35 percent

(2) The limitations in subsection (1) of this section apply to waivers, exemptions, or reductions in operating fees contained in the following:

- (a) RCW 28B.10.265;
- (b) RCW 28B.15.014;
- (c) RCW 28B.15.100;
- (d) RCW 28B.15.225;
- (e) RCW 28B.15.380;
- (f) Ungraded courses under RCW 28B.15.502(4);
- (g) RCW 28B.15.520;
- (h) RCW 28B.15.526;
- (i) RCW 28B.15.527;
- (j) RCW 28B.15.543;
- (k) RCW 28B.15.545;
- (l) RCW 28B.15.555;
- (m) RCW 28B.15.556;
- (n) RCW 28B.15.615;
- (o) RCW 28B.15.620;

- (p) RCW 28B.15.628;
- (q) RCW 28B.15.725;
- (r) RCW 28B.15.730;
- (s) RCW 28B.15.740;
- (t) RCW 28B.15.750;
- (u) RCW 28B.15.756;
- (v) RCW 28B.50.259;
- (w) RCW 28B.70.050; and
- (x) RCW 28B.80.580.

(3) The limitations in subsection (1) of this section do not apply to waivers, exemptions, or reductions in services and activities fees contained in the following:

- (a) RCW 28B.15.522;
- (b) RCW 28B.15.535;
- (c) RCW 28B.15.540; and
- (d) RCW 28B.15.558. [1992 c 231 § 33.]

Effective date—1992 c 231: See note following RCW 28B.10.016.

Chapter 28B.16**STATE HIGHER EDUCATION PERSONNEL LAW**

Sections

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College work-study program not to supplant classified positions: RCW 28B.12.060.

Peer review committees—Proceedings—Statement of reasons: RCW 28B.10.648.

28B.16.010 Purpose. The interests of state institutions of higher education and the employees of those institutions will be furthered by the enactment of a system of personnel administration designed specifically to meet particular needs in connection with employer-employee relations in the state institutions of higher education. The general purpose of this chapter is to establish a system of personnel administration for the institutions of higher education in the state which is based on merit principles and scientific methods, and which governs the appointment, promotion, transfer, layoff, recruitment, retention, classification and pay plans, removal, discipline, and welfare of employees covered under this chapter. [1969 ex.s. c 36 § 1. Formerly RCW 28.75.010.]

Reviser's note: Term "this act" has been changed to "this chapter" throughout chapter 28B.16 RCW even though said act, 1969 ex.s. c 36, in sections 21 through 25 thereof amended or repealed sections in chapter 41.06 RCW. Thus RCW 28B.16.920, an effective date section, and RCW 28B.16.930, a severability section, are applicable to RCW 41.06.020, 41.06.040, 41.06.070, 41.06.200 and the repeal of RCW 41.06.050.

28B.16.020 Definitions. Unless the context clearly indicates otherwise, the words used in this chapter have the meaning given in this section.

(1) "Institutions of higher education" are the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges;

(2) "Board" means the higher education personnel board established under the provisions of RCW 28B.16.060;

(3) "Related boards" means the *state board for community college education and the higher education personnel board; and such other boards, councils and commissions related to higher education as may be established;

(4) "Classified service" means all positions at the institutions of higher education subject to the provisions of this chapter;

(5) "Comparable worth" means the provision of similar salaries for positions that require or impose similar responsibilities, judgments, knowledge, skills, and working conditions;

(6) "Competitive service" means all positions in the classified service for which a competitive examination is required as a condition precedent to appointment;

(7) "Noncompetitive service" means all positions in the classified service for which a competitive examination is not required;

(8) "Affirmative action" means a procedure by which racial minorities, women, persons in the protected age category, persons with disabilities, Vietnam-era veterans, and disabled veterans are provided with increased employment opportunities. It shall not mean any sort of quota system. [1985 c 461 § 8; 1985 c 365 § 2; 1983 1st ex.s. c 75 § 1; 1982 1st ex.s. c 53 § 14; 1977 ex.s. c 169 § 41; 1969 ex.s. c 36 § 2. Formerly RCW 28.75.020.]

Reviser's note: (1) This section was amended by 1985 c 365 § 2 and by 1985 c 461 § 8, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

* (2) The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Severability—1985 c 461: See note following RCW 41.06.020.

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.16.030 Application. The provisions of this chapter shall apply to all personnel of the institutions of higher education and related boards except those exempted under the provisions of RCW 28B.16.040. [1969 ex.s. c 36 § 3. Formerly RCW 28.75.030.]

28B.16.040 Exempted personnel—Right of reversion to civil service status. The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(1) Members of the governing board of each institution and related boards, all presidents, vice presidents and their confidential secretaries, administrative and personal assistants; deans, directors, and chairmen; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington.

(2) Student, part time, or temporary employees, and part time professional consultants, as defined by the higher education personnel board, employed by institutions of higher education and related boards.

(3) The director, his confidential secretary, assistant directors, and professional education employees of the *state board for community college education.

(4) The personnel director of the higher education personnel board and his confidential secretary.

(5) The governing board of each institution, and related boards, may also exempt from this chapter, subject to the employees right of appeal to the higher education personnel board, classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training, and principal assistants to executive heads of major administrative or academic divisions, as determined by the higher education personnel board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the higher education personnel board under this provision.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section. [1990 c 60 § 201; 1982 1st ex.s. c 53 § 15; 1977 ex.s. c 94 § 1; 1969 ex.s. c 36 § 4. Formerly RCW 28.75.040.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Severability—Subheadings not law—1990 c 60: See notes following RCW 41.06.070.

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

28B.16.041 Exempted personnel—State internship program. This chapter does not apply to positions under the state internship program established under RCW 43.06.410. [1985 c 442 § 9.]

Construction—Severability—1985 c 442: See notes following RCW 43.06.410.

28B.16.042 Exempted personnel—Certain printing craft employees. In addition to the exemptions set forth in RCW 28B.16.040, the provisions of this chapter do not apply to printing craft employees in the department of printing of the University of Washington. [1985 c 266 § 1.]

28B.16.043 Exempted personnel—Seattle Vocational Institute employees. Employees of the Seattle Vocational Institute are exempt from the provisions of this chapter until July 1, 1993. [1991 c 238 § 107.]

Effective dates—Severability—1991 c 238: See RCW 28B.50.917 and 28B.50.918.

28B.16.060 State higher education personnel board—Members—Qualifications—Compensation and travel expenses of members—Officers—Quorum—Public record—Personnel director—Board personnel. (1) There is hereby created a state higher education personnel board composed of three members appointed by the governor, subject to confirmation by the senate. The first such board shall be appointed within thirty days after the effective date of this chapter for terms of two, four, and six years. Each odd-numbered year thereafter the governor shall appoint a member for a six-year term. Persons so appointed shall have clearly demonstrated an interest and belief in the merit principle, shall not hold any other employment with the state, shall not have been an officer of a political party for a period of one year immediately prior to such appointment, and shall not be or become a candidate for partisan elective public office during the term to which they are appointed.

(2) Each member of the board shall be compensated in accordance with RCW 43.03.250. Members of the board shall also be reimbursed for travel expenses incurred in the discharge of their official duties in accordance with RCW 43.03.050 and 43.03.060.

(3) At its first meeting following the appointment of all of its members, and annually thereafter, the board shall elect a chairman and vice chairman from among its members to serve one year. The presence of at least two members of the board shall constitute a quorum to transact business. A written public record shall be kept by the board of all actions of the board.

(4) The board shall appoint a personnel director who shall be the chief staff officer for the board. In preparing matters for consideration by the board and in coordinating the implementation of the board's rules and regulations, the personnel director shall work in conjunction with the campus personnel officers and their staffs at each institution of higher education, and in the case of community colleges, with the *state board for community college education. When necessary, the personnel director may request the creation of task forces drawn from the four-year institutions of higher education, and representatives of the various state community colleges through the *state board for community college education, for the accomplishment of any projects undertaken by the board. The director may employ necessary personnel for the board, and the board may appoint and compensate hearing officers to hear and conduct appeals. The board shall establish an office for the conduct of its business. [1984 c 287 § 63; 1981 c 338 § 19; 1975-'76 2nd ex.s. c 34 § 73; 1969 ex.s. c 36 § 6. Formerly RCW 28.75.060.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

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

28B.16.070 State higher education personnel board—Meetings, hearings—Calling of, notice—Hearing officers, appointment—Majority of board to approve material released, findings—Oaths. (1) In the necessary conduct of its work, the board shall meet monthly unless

there is no pending business requiring board action. Public meetings shall be held on campuses of the various state institutions of higher education. Hearings and meetings which are not required to be open to the public under the Open Public Meetings Act, chapter 42.30 RCW, may be held at locations other than institution campuses. Meetings may be called by the chairman of the board or a majority of the members of the board. Hearings may be called by the chairman of the board or a majority of the members of the board. Hearings may be conducted by a hearing officer duly appointed by the board. An official notice of the calling of a hearing shall be filed with the personnel director, and all members of the board shall be notified.

(2) No release of material or statement of findings may be made except with the approval of a majority of the board.

(3) In the conduct of hearings or investigations, a member of the board, or the director of personnel, or the hearing officer appointed to conduct the hearing, may administer oaths. [1983 c 23 § 1; 1969 ex.s. c 36 § 7. Formerly RCW 28.75.070.]

28B.16.080 Personnel officers for institutions and related boards—Duties—Utilizing state department of personnel—Community college control in board. Each institution of higher education and each related board shall designate an officer who shall perform duties as personnel officer. The personnel officer at each institution or related board shall direct, supervise, and manage administrative and technical personnel activities for the classified service at the institution or related board consistent with policies established by the institution or related board and in accordance with the provisions of this chapter and the rules and regulations approved and promulgated thereunder. Institutions may undertake jointly with one or more other institutions to appoint a person qualified to perform the duties of personnel officer, provide staff and financial support and may engage consultants to assist in the performance of specific projects. The services of the state department of personnel may also be utilized by the institutions or related boards pursuant to RCW 41.06.080.

The *state board for community college education shall have general supervision and control over activities undertaken by the various state community colleges pursuant to this section. [1969 ex.s. c 36 § 8. Formerly RCW 28.75.080.]

*Reviser's note: The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

28B.16.090 Rules and regulations—To provide for employee participation in policy—Notice before board action—Rules available without charge. It shall be the duty of the personnel board to promulgate rules and regulations providing for employee participation in the development and administration of personnel policies. To assure this right, personnel policies, rules, classification and pay plans, and amendments thereto, shall be acted on only after the board has given twenty days' notice to, and considered proposals from, employee representatives and institutions or related boards affected. In matters involving the various state community colleges, notice shall also be given to the *state board for community college education. Complete and current compilations of all rules and regulations of the

board in printed, mimeographed, or multigraphed form shall be available from the board without charge. [1969 ex.s. c 36 § 9. Formerly RCW 28.75.090.]

*Reviser's note: The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

28B.16.100 Rules—Scope. The higher education personnel board shall adopt rules, consistent with the purposes and provisions of this chapter and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

(1) The dismissal, suspension, or demotion of an employee, and appeals therefrom;

(2) Certification of names for vacancies, including promotions, with the number of names equal to four more names than there are vacancies to be filled, such names representing applicants rated highest on eligibility lists: PROVIDED, That when other applicants have scores equal to the lowest score among the names certified, their names shall also be certified;

(3) Examination for all positions in the competitive and noncompetitive service;

(4) Appointments;

(5) Probationary periods of six to twelve months and rejections therein, depending on the job requirements of the class;

(6) Transfers;

(7) Sick leaves and vacations;

(8) Hours of work;

(9) Layoffs when necessary and subsequent reemployment, both according to seniority;

(10) Determination of appropriate bargaining units within any institution or related boards: PROVIDED, That in making such determination the board shall consider the duties, skills, and working conditions of the employees, the history of collective bargaining by the employees and their bargaining representatives, the extent of organization among the employees, and the desires of the employees;

(11) Certification and decertification of exclusive bargaining representatives: PROVIDED, That after certification of an exclusive bargaining representative and upon the representative's request, the director shall hold an election among employees in a bargaining unit to determine by a majority whether to require as a condition of employment membership in the certified exclusive bargaining representative on or after the thirtieth day following the beginning of employment or the date of such election, whichever is the later, and the failure of an employee to comply with such condition of employment constitutes 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 is satisfied by the payment of monthly or other periodic dues and does not require payment of initiation, reinstatement, or any other fees or fines and includes 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 is entitled to all the representation rights of a union member;

(12) Agreements between institutions or related boards and certified exclusive bargaining representatives providing for grievance procedures and collective negotiations on all personnel matters over which the institution or the related board may lawfully exercise discretion;

(13) Written agreements may contain provisions for payroll deductions of employee organization dues upon authorization by the employee member and for the cancellation of such payroll deduction by the filing of a proper prior notice by the employee with the institution and the employee organization: PROVIDED, That nothing contained herein permits or grants to any employee the right to strike or refuse to perform his official duties;

(14) Adoption and revision of comprehensive classification plans for all positions in the classified service, based on investigation and analysis of the duties and responsibilities of each such position;

(15) Allocation and reallocation of positions within the classification plan;

(16) Adoption and revision of salary schedules and compensation plans which reflect the prevailing rates in Washington state private industries and other governmental units for positions of a similar nature but the rates in the salary schedules or plans shall be increased if necessary to attain comparable worth under an implementation plan under RCW 28B.16.116 and which shall be competitive in the state or the locality in which the institution or related boards are located, such adoption, revision, and implementation subject to approval as to availability of funds by the director of financial management in accordance with the provisions of chapter 43.88 RCW, and after consultation with the chief financial officer of each institution or related board for that institution or board, or in the case of community colleges, by the chief financial officer of the *state board for community college education for the various community colleges;

(17) Training programs including in-service, promotional, and supervisory;

(18) Increment increases within the series of steps for each pay grade based on length of service for all employees whose standards of performance are such as to permit them to retain job status in the classified service;

(19) Providing for veteran's preference as provided by existing statutes, with recognition of preference in regard to layoffs and subsequent reemployment for veterans and their widows by giving such eligible veterans and their widows additional credit in computing their seniority by adding to their unbroken higher education service, as defined by the board, the veteran's service in the military not to exceed five years of such service. For the purposes of this section, "veteran" means any person who has one or more years of

active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government and who, upon termination of such service, has received an honorable discharge, a discharge for physical reasons with an honorable record, or a release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge shall be given: PROVIDED, HOWEVER, That the widow of a veteran is 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" does 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;

(20) Assuring that persons who are or have been employed in classified positions under chapter 41.06 RCW will be eligible for employment, reemployment, transfer, and promotion in respect to classified positions covered by this chapter; and

(21) Assuring that any person who is or has been employed in a classified position under this chapter will be eligible for employment, reemployment, transfer, and promotion in respect to classified positions at any other institution of higher education or related board.

(22) Affirmative action in appointment, promotion, transfer, recruitment, training, and career development; development and implementation of affirmative action goals and timetables; and monitoring of progress against those goals and timetables.

The board shall consult with the human rights commission in the development of rules consistent with federal guidelines pertaining to affirmative action. The board shall transmit a report annually to the human rights commission which states the progress each institution of higher education has made in meeting affirmative action goals and timetables. [1990 c 60 § 202. Prior: 1985 c 461 § 9; 1985 c 365 § 1; 1983 1st ex.s. c 75 § 2; 1982 1st ex.s. c 53 § 16; 1979 c 151 § 15; 1977 ex.s. c 152 § 8; 1975 1st ex.s. c 122 § 1; 1973 1st ex.s. c 75 § 2; 1973 c 154 § 2; 1971 ex.s. c 19 § 1; 1969 ex.s. c 36 § 10. Formerly RCW 28.75.100. Former part of section, see RCW 28B.16.101.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Severability—Subheadings not law—1990 c 60: See notes following RCW 41.06.070.

Severability—1985 c 461: See note following RCW 41.06.020.

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

Severability—1977 ex.s. c 152: See note following RCW 41.06.150.

Severability—1975 1st ex.s. c 122: "If any provision of this amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 122 § 3.]

Effective date—1973 1st ex.s. c 75: See note following RCW 41.06.150.

Positions under college work-study program to be identified as to job classification: RCW 28B.12.060.

28B.16.101 Rules—Areas for local administration and management. Rules adopted by the higher education personnel board shall provide for local administration and management by the institutions of higher education and related boards, subject to periodic audit and review by the board, of the following:

- (1) Appointment, promotion, and transfer of employees;
- (2) Dismissal, suspension, or demotion of an employee;
- (3) Examinations for all positions in the competitive and noncompetitive service;
- (4) Probationary periods of six to twelve months and rejections therein;
- (5) Sick leaves and vacations;
- (6) Hours of work;
- (7) Layoffs when necessary and subsequent reemployment;
- (8) Allocation and reallocation of positions within the classification plans;
- (9) Training programs; and
- (10) Maintenance of personnel records. [1982 1st ex.s. c 53 § 19; 1977 ex.s. c 152 § 9. Prior: 1975 1st ex.s. c 122 § 1, part; 1973 1st ex.s. c 75 § 2, part; 1973 c 154 § 2, part; 1971 ex.s. c 19 § 1, part; 1969 ex.s. c 36 § 10, part. Formerly RCW 28B.16.100, part.]

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

Severability—1977 ex.s. c 152: See note following RCW 41.06.150.

28B.16.105 Rules—Standardized employee performance evaluation procedures and forms. After consultation with institution heads, employee organizations, and other interested parties, the board shall develop standardized employee performance evaluation procedures and forms which shall be used by institutions of higher learning for the appraisal of employee job performance at least annually. These procedures shall include means whereby individual institutions may supplement the standardized evaluation process with special performance factors peculiar to specific organizational needs. This evaluation procedure shall place primary emphasis on recording how well the employee has contributed to efficiency, effectiveness, and economy in fulfilling institution and job objectives. [1985 c 461 § 10; 1982 1st ex.s. c 53 § 17; 1977 ex.s. c 152 § 13.]

Severability—1985 c 461: See note following RCW 41.06.020.

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

Severability—1977 ex.s. c 152: See note following RCW 41.06.150.

28B.16.110 Rules—Salary schedules and compensation plans to reflect prevailing wages—Periodic wage surveys with recommended salary adjustments, report of with supporting data. The salary schedules and compensation plans, adopted and revised as provided in RCW 28B.16.100 as now or hereafter amended, shall reflect prevailing rates in other public employment and in private employment in this state or in the locality in which the institution or related board is located. For this purpose comprehensive 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 in the year prior to the convening of every other one hundred five day regular session of the state legislature. In the year prior to the convening of each one hundred five day regular session during which a comprehensive salary and fringe benefit survey is not conducted, the board with assistance of the various personnel officers of the institutions of higher education and on a joint basis with the department of personnel, shall conduct a trend salary and fringe benefit survey. This survey shall measure average salary and fringe benefit movement for broad occupational groups which has occurred since the last comprehensive salary and fringe benefit survey was conducted. The results of each comprehensive and trend salary and fringe benefit survey shall be completed and forwarded by September 30 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.

In the case of comprehensive salary and fringe benefit surveys, 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.

The first comprehensive salary and fringe benefit survey required by this section shall be completed and forwarded to the governor and the director of financial management by September 30, 1986. The first trend salary and fringe benefit survey required by this section shall be completed and forwarded to the governor and the director of financial management by September 30, 1988. [1985 c 94 § 1; 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.

Severability—1975 1st ex.s. c 122: See note following RCW 28B.16.100.

28B.16.112 Rules—Salary schedules and compensation plans to reflect prevailing wages—Salary and fringe benefit surveys—Comprehensive plan—"Fringe benefits" defined. (1) In the conduct of salary and fringe benefit surveys under RCW 28B.16.110 as now or hereafter amended, it is the intention of the legislature that the surveys be undertaken in a manner consistent with statistically accurate sampling techniques. For this purpose, a comprehensive salary and fringe benefit survey plan shall be submitted to the director of financial management, employee organizations, and the standing committees for appropriations in the senate and house of representatives six months before the beginning of each periodic survey required before regular legislative sessions. This comprehensive plan shall include but not be limited to the following:

(a) A complete explanation of the technical, statistical process to be used in the salary and fringe benefit survey including the percentage of accuracy expected from the planned statistical sample chosen for the survey and a definition of the term "prevailing rates" which is to be used in the planned survey;

(b) A comprehensive salary and fringe benefit survey model based on scientific statistical principles which:

(i) Encompasses the interrelationships among the various elements of the survey sample including sources of salary and fringe benefit data by organization type, size, and regional location;

(ii) Is representative of private and public employment in this state;

(iii) Ensures that, wherever practical, data from smaller, private firms are included and proportionally weighted in the survey sample; and

(iv) Indicates the methodology to be used in application of survey data to job classes used by state government;

(c) A prediction of the increase or decrease in total funding requirements expected to result from the pending salary and fringe benefit survey based on consumer price index information and other available trend data pertaining to Washington state salaries and fringe benefits.

(2) Every comprehensive survey plan shall fully consider fringe benefits as an element of compensation in addition to basic salary data. The plans prepared under this section shall be developed jointly by the higher education personnel board in conjunction with the department of personnel established under chapter 41.06 RCW. All comprehensive salary and fringe benefit survey plans shall be submitted on a joint signature basis by the higher education personnel board and the department of personnel.

(3) Interim or special surveys conducted under RCW 28B.16.110 as now or hereafter amended shall conform when possible to the statistical techniques and principles developed for regular periodic surveys under this section.

(4) The term "fringe benefits" as used in this section and in conjunction with salary surveys shall include but not be limited to compensation for:

(a) Leave time, including vacation, holiday, civil, and personal leave;

(b) Employer retirement contributions;

(c) Health and insurance payments, including life, accident, and health insurance, workers' compensation, and sick leave; and

(d) Stock options, bonuses, and purchase discounts where appropriate. [1987 c 185 § 3; 1986 c 158 § 4; 1979 c 151 § 17; 1977 ex.s. c 152 § 11.]

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

Severability—1977 ex.s. c 152: See note following RCW 41.06.150.

28B.16.113 Rules—Salary schedules and compensation plans to reflect prevailing wages—Criteria for salary surveys. Salary surveys shall be conducted according to the following criteria in addition to any other provisions under this chapter:

(1) Adjustments of state salaries to prevailing rates in Washington state private industries and other governmental units shall be determined by comparisons of weighted averages of salaries, including weighted averages of salaries from out-of-state sources when necessary to obtain statistically valid salary surveys; and

(2) Determination of state salary changes from prevailing rate data collected in salary surveys shall be based on occupational group averages containing related job classes where appropriate rather than on comparisons of survey data to individual state job classes. [1977 ex.s. c 152 § 12.]

Severability—1977 ex.s. c 152: See note following RCW 41.06.150.

28B.16.116 Salaries—Implementation of changes to achieve comparable worth. Salary changes necessary to

achieve comparable worth shall be implemented during the 1983-85 biennium under a schedule developed by the board in cooperation with the department of personnel. Adjustments in salaries and compensation solely for the purpose of achieving comparable worth shall be made at least annually. Comparable worth for the jobs of all employees under this chapter shall be fully achieved not later than June 30, 1993. [1983 1st ex.s. c 75 § 3.]

28B.16.120 Rules and regulations—Employee suspensions, reductions, dismissals or demotions—Notice of—Appeal to board—Appeals on exempt or nonexempt classification. (1) The board, in the promulgation of rules and regulations governing suspensions for cause, shall not authorize an institution of higher education or related board to suspend an employee for more than fifteen calendar days as a single penalty or more than thirty calendar days in any one calendar year as an accumulation of several penalties. The board shall require that the institution of higher education or related board give written notice to the employee not later than one day after the suspension takes effect, stating the reason for and the duration thereof. The institution or related board shall file a copy of the notice with the personnel director.

(2) Any employee who is reduced, dismissed, suspended, or demoted, after completing his probationary period of service as provided by the rules and regulations of the board, shall have the right to appeal to the board not later than thirty days after the effective date of such action. The employee shall be furnished with specified charges in writing when the action is taken. Such appeal shall be in writing and shall be heard by the board or its hearing officer duly appointed by the board within thirty days after notice of appeal is filed. The board shall furnish the institution or related board concerned with a copy of the appeal in advance of the hearing.

(3) Any employee who feels that any classification should or should not be exempt, or any employee in a nonexempt classification who feels that he should be exempt because of academic qualifications which would enable such employee to teach and thus be exempt, may appeal to the board in the same manner as provided in subsection (2) above: PROVIDED, That when an appeal is initiated under this subsection the decision of the higher education personnel board shall be final. [1969 ex.s. c 36 § 12. Formerly RCW 28.75.120.]

Destruction or retention of information relating to employee misconduct: RCW 41.06.450 through 41.06.460.

28B.16.130 Hearings on appeals—Notice of—Subpoena power and oaths, certification to court of refusal to comply with—Record of hearing. Hearings on such appeals shall be open to the public, except for cases in which the board determines there is substantial reason for not having an open hearing, or in cases where the employee so requests, and shall be informal with technical rules of evidence not applying to the proceedings except the rules of privilege recognized by law. Both the employee and his institution or related board shall be notified reasonably in advance of the hearing and may select representatives of their choosing, present and cross-examine witnesses and give

evidence before the board. Members of the board may, and shall at the request of either party, issue subpoenas and subpoenas duces tecum. All testimony shall be on oath administered by a member of the board. The board shall certify to the superior court the facts of any refusals to obey a subpoena, take the oath, or testify. The court shall summarily hear the evidence on such refusal and if the evidence warrants punish such refusal in the same manner and to the same extent as for contempt committed before, or in connection with the proceedings of, the court. The board shall prepare an official record of the hearing, including all testimony, recorded manually or by mechanical device, and exhibits; but it shall not be required to transcribe such record unless requested by the employee, who shall be furnished with a complete transcript upon payment of a reasonable charge therefor. Payment of the cost of a transcript used on appeal shall await determination of the appeal, and shall be made by the employing institution or related board if the employee prevails. [1969 ex.s. c 36 § 13. Formerly RCW 28.75.130.]

28B.16.140 Hearings on appeals—Board findings, conclusions, and order. Within thirty days after the conclusion of the hearing the board shall make and fully record in its permanent records findings of fact, conclusions of law when the construction of a rule, regulation or statute is in question, reasons for the action taken and its order based thereon, which shall be final subject to action by the court on appeal as hereinafter provided, at the same time sending a copy of the findings, conclusions and order by registered mail to the employing institution and to the employee at his address as given at the hearing or to a representative designated by him to receive the same. [1969 ex.s. c 36 § 14. Formerly RCW 28.75.140.]

28B.16.150 Appeal from board order—Grounds—Notice of—Transcript, exhibits. (1) Within thirty days after the recording of the order and the mailing thereof, either party may appeal to the superior court of the county in which the employing institution or related board is located on one or more of the grounds that the order was:

(a) Founded on or contained error of law, which shall specifically include error in construction or application of any pertinent rules or regulations;

(b) Contrary to a preponderance of the evidence as disclosed by the entire record with respect to any specified finding or findings of fact;

(c) Materially affected by unlawful procedure;

(d) Based on violation of any constitutional provision;

or

(e) Arbitrary or capricious.

(2) Such grounds will be stated in a written notice of appeal filed with the court, with copies thereof served at the office of the personnel director or a member of the board, and the adverse party, all within the time stated.

(3) Within thirty days after service of such notice, or within such further time as the court may allow, the board shall transmit to the court a certified transcript, with exhibits, of the hearing; but by stipulation between the employing institution or related board and the employee the transcript may be shortened, and either party unreasonably refusing to

stipulate to such limitation may be ordered by the court to pay the additional cost involved. The court may require or permit subsequent corrections or additions to the transcript. [1969 ex.s. c 36 § 15. Formerly RCW 28.75.150.]

28B.16.160 Appeal from board order—Court review, scope—Appellate review by supreme court or court of appeals. (1) The court shall review the hearing without a jury on the basis of the transcript and exhibits, except that in case of alleged irregularities in procedure before the board not shown by the transcript the court may order testimony to be given thereon. The court shall upon request by either party hear oral argument and receive written briefs.

(2) The court may affirm the order of the board, remand the matter for further proceedings before the board, or reverse or modify the order if it finds that the objection thereto is well taken on any of the grounds stated. Appellate review of the order of the superior court may be sought as in other civil cases. [1988 c 202 § 27; 1971 c 81 § 72; 1969 ex.s. c 36 § 16. Formerly RCW 28.75.160.]

Severability—1988 c 202: See note following RCW 2.24.050.

28B.16.170 Hearings in appeals—Hearing examiners may handle appeals—Appeals to board from. The board may appoint one or more hearings examiners to preside over, conduct and make recommended decisions, including findings of fact and conclusions of law in all cases of employee appeals to the board. The hearings examiner shall conduct hearings in the same manner and shall have the same authority as provided in hearings by the board. The recommended decisions shall be forthwith served upon the parties and transmitted to the board together with a transcript of the evidence. Within thirty days of service of the recommended decision, any party adversely affected may file exceptions, and thereafter all parties may present written and oral argument to the board, which shall consider the whole record or such portions thereof as may be cited by the parties. [1969 ex.s. c 36 § 26. Formerly RCW 28.75.170.]

28B.16.180 Terminated employee can request placement on reemployment list—Reinstated employee entitled to employment rights. (1) An employee who is terminated from service may request the institution or related board to place his name on an appropriate reemployment list and the institution shall grant this request where the circumstances are found to warrant reemployment.

(2) Any employee, when fully reinstated after appeal, shall be guaranteed all employee rights and benefits, including back pay, sick leave, vacation accrual, retirement, and OASDI credits. [1973 1st ex.s. c 46 § 3; 1969 ex.s. c 36 § 17. Formerly RCW 28.75.180.]

Severability—1973 1st ex.s. c 46: See note following RCW 28B.10.704.

28B.16.190 Employee's pay withheld unless compliance with chapter—Certification of payrolls. A disbursing officer shall not pay any employee holding a position covered by this chapter unless the employment is in accordance with this chapter or the rules, regulations, and orders issued hereunder. The board and the institutions of higher

education including the *state board for community college education which shall act for the various state community colleges shall jointly establish procedures for the certification of payrolls. [1969 ex.s. c 36 § 19. Formerly RCW 28.75.190.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

28B.16.200 Higher education personnel board service fund—Created—Contributions to—Use—Disbursements. There is hereby created a fund within the state treasury, designated as the "higher education personnel board service fund," to be used by the board as a revolving fund for the payment of salaries, wages, and operations required for the administration of the provisions of this chapter, the budget for which shall be subject to review and approval and appropriation by the legislature. An amount not to exceed one-half of one percent of the salaries and wages for all positions in the classified service shall be contributed from the operations appropriations of each institution and the *state board for community college education and credited to the higher education personnel board service fund as such allotments are approved pursuant to chapter 43.88 RCW. Subject to the above limitations, such amount shall be charged against the allotments pro rata, at a rate to be fixed by the director of financial management from time to time, which will provide the board with funds to meet its anticipated expenditures during the allotment period.

Moneys from the higher education personnel board service fund shall be disbursed by the state treasurer by warrants on vouchers duly authorized by the board. [1979 c 151 § 18; 1969 ex.s. c 36 § 20. Formerly RCW 28.75.200.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

28B.16.210 Employees currently under classified service system retain status—Rules, plans adopted under chapter 41.06 RCW, effective until superseded by board action. Employees covered by this chapter who are currently serving under the jurisdiction of a classified service system established pursuant to chapter 1, Laws of 1961 (chapter 41.06 RCW), shall automatically retain their permanent or probationary status acquired under such system.

Rules, classification plans, compensation plans and bargaining units adopted or established pursuant to chapter 1, Laws of 1961 (chapter 41.06 RCW), shall remain in effect until superseded by action of the board pursuant to this chapter. [1969 ex.s. c 36 § 29. Formerly RCW 28.75.210.]

28B.16.220 Chapter not to alter existing collective bargaining unit or agreement. Nothing contained in this chapter shall be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement. [1969 ex.s. c 36 § 31. Formerly RCW 28.75.220.]

28B.16.230 Unfair labor practices provisions applicable to chapter. Each and every provision of RCW 41.56.140 through 41.56.190 shall be applicable to the state higher education personnel law and the higher education personnel board, or its designee, whose final decision shall be appealable to the higher education personnel board, which is granted all powers and authority granted to the department of labor and industries by RCW 41.56.140 through 41.56.190. [1973 c 62 § 6; 1969 ex.s. c 215 § 14. Formerly RCW 28.75.230.]

Savings—Severability—1973 c 62: See notes following RCW 28B.10.510.

28B.16.240 Purchasing services by contract not prohibited—Limitations. Nothing contained in this chapter shall prohibit any institution of higher education, as defined in RCW 28B.10.016, or related board from purchasing services by contract with individuals or business entities if such services were regularly purchased by valid contract at such institution prior to April 23, 1979: PROVIDED, That no such contract may be executed or renewed if it would have the effect of terminating classified employees or classified employee positions existing at the time of the execution or renewal of the contract. [1979 ex.s. c 46 § 1.]

28B.16.255 Employee performance evaluations—Written notification of deficiencies. Each employee whose work is judged unsatisfactory shall be notified in writing of the areas in which the work is considered deficient. Unless the deficiency is extreme, the employee shall be given an opportunity to demonstrate improvement. [1985 c 461 § 11.]

Severability—1985 c 461: See note following RCW 41.06.020.

28B.16.265 Employee performance evaluations—Termination of employment—Rules. The higher education personnel board shall adopt rules designed to terminate the state employment of any employee whose performance is so inadequate as to warrant termination. [1985 c 461 § 12.]

Severability—1985 c 461: See note following RCW 41.06.020.

28B.16.275 Employee performance evaluations—Removal of supervisors tolerating deficient employees. The personnel board shall adopt rules designed to remove from supervisory positions those supervisors who in violation of the rules adopted under RCW 28B.16.265 have tolerated the continued employment of employees under their supervision whose performance has warranted termination from state employment. [1985 c 461 § 13.]

Severability—1985 c 461: See note following RCW 41.06.020.

Duty of state officers to identify employees whose performance warrants termination of employment: RCW 43.01.125.

28B.16.300 Employee return-to-work program. (1) In addition to the rules adopted under RCW 28B.16.100, the board shall adopt rules establishing an employee return-to-work program. The program shall, at a minimum:

(a) Direct each institution of higher education to adopt a return-to-work policy. The program shall allow each institution program to take into consideration the special nature of employment in the institution;

(b) Provide for eligibility in the return-to-work program, for a minimum of two years from the date the temporary disability commenced, for any permanent employee who is receiving compensation under RCW 51.32.090 and who is, by reason of his or her temporary disability, unable to return to his or her previous work, but who is physically capable of carrying out work of a lighter or modified nature;

(c) Allow opportunity for return-to-work state-wide when appropriate job classifications are not available in the institution of higher education that is the appointing authority at the time of injury;

(d) Require each institution of higher education to name a representative responsible for coordinating the return-to-work program of the institution;

(e) Provide that applicants receiving appointments for classified service receive an explanation of the return-to-work policy;

(f) Require training of supervisors on implementation of the return-to-work policy, including but not limited to assessment of the appropriateness of the return-to-work job for the employee; and

(g) Coordinate participation of applicable employee assistance programs, as appropriate.

(2) The full-time equivalents necessary to implement the return-to-work program established under this section shall be used only for the purposes of the return-to-work program and the net increase in full-time equivalents shall be temporary. [1990 c 204 § 4.]

Findings—Purpose—1990 c 204: See note following RCW 51.44.170.

28B.16.900 Federal requirements make conflicts in chapter voidable—Rules and regulations to implement federal requirements. If any part of this chapter shall be found to be in conflict with federal requirements which are a condition precedent to the allocation of federal funds to an institution of higher education or related board, such conflicting part of this chapter is hereby declared to be inoperative solely to the extent of such conflict and with respect to the institutions or related boards directly affected, and such findings or determination shall not affect the operation of the remainder of this chapter in its application to the institutions or related board concerned. The board shall make such rules and regulations as may be necessary to meet federal requirements which are a condition precedent to the receipt of federal funds by the institutions of higher education, related boards, or the state. [1969 ex.s. c 36 § 18. Formerly RCW 28.75.900.]

28B.16.910 Short title. This chapter shall be referred to as the state higher education personnel law. [1969 ex.s. c 36 § 27. Formerly RCW 28.75.910.]

28B.16.920 Effective date—1969 ex.s. c 36. This chapter shall become effective on July 1, 1969. [1969 ex.s. c 36 § 30. Formerly RCW 28.75.920.]

Reviser's note: See note following RCW 28B.16.010.

28B.16.930 Severability—1969 ex.s. c 36. If any provision of this chapter or the application thereof is held invalid, such invalidity shall not affect other provisions or

applications of the chapter which can be given effect without the invalid provision or application, and to this end any section, sentence, or word is declared to be severable. [1969 ex.s. c 36 § 28. Formerly RCW 28.75.930.]

Reviser's note: See note following RCW 28B.16.010.

Chapter 28B.20

UNIVERSITY OF WASHINGTON

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GENERAL

28B.20.010 Designation. The state university located and established in Seattle, King county, shall be designated the University of Washington. [1969 ex.s. c 223 § 28B.20.010. Prior: 1909 c 97 p 238 § 1; RRS § 4544; prior: 1897 c 118 § 182; 1890 p 395 § 1. Formerly RCW 28.77.010.]

28B.20.020 Purpose. The aim and purpose of the University of Washington shall be to provide a liberal education in literature, science, art, law, medicine, military science and such other fields as may be established therein from time to time by the board of regents or by law. [1969 ex.s. c 223 § 28B.20.020. Prior: 1909 c 97 p 238 § 2; RRS § 4545; prior: 1897 c 118 § 183; 1893 c 122 § 6; 1890 p 395 § 2. Formerly RCW 28.77.020.]

28B.20.054 Credits—State-wide transfer policy and agreement—Establishment. See RCW 28B.80.280 and 28B.80.290.

28B.20.055 "Major line" defined. See RCW 28B.10.100.

28B.20.057 Major lines common to University of Washington and Washington State University. See RCW 28B.10.115.

28B.20.060 Courses exclusive to University of Washington. The courses of instruction of the University of Washington shall embrace as exclusive major lines, law, medicine, forest products, logging engineering, library sciences, aeronautic and astronautic engineering, and fisheries. [1985 c 218 § 2; 1969 ex.s. c 223 § 28B.20.060. Prior: 1963 c 23 § 1; 1961 c 71 § 1; prior: (i) 1917 c 10 § 2; RRS § 4533. (ii) 1917 c 10 § 5; RRS § 4536. Formerly RCW 28.77.025; 28.76.060.]

28B.20.095 University fees. See chapter 28B.15 RCW.

28B.20.100 Regents—Appointment—Terms—Vacancies—Quorum. The governance of the University of Washington shall be vested in a board of regents to consist of nine members. They shall be appointed by the governor with the consent of the senate, and shall hold their offices for a term of six years from the first day of October and until their successors shall be appointed and qualified. Five members of said board shall constitute a quorum for the transaction of business. In the case of a vacancy, or when an appointment is made after the date of the expiration of a term, the governor shall fill the vacancy for the remainder of the term of the regent whose office has become vacant or expired.

No more than the terms of two members will expire simultaneously on the last day of September in any one year. [1985 c 61 § 1; 1979 ex.s. c 103 § 2; 1973 c 62 § 7; 1969 ex.s. c 223 § 28B.20.100. Prior: 1909 c 97 p 239 § 3; RRS § 4554; prior: 1897 c 118 § 184; 1895 c 101 § 1; 1890 p 396 § 3. Formerly RCW 28.77.090, 28.77.100, part.]

Present terms not affected—1979 ex.s. c 103: "Nothing in sections 2 through 6 of this amendatory act shall shorten the terms of regents or trustees presently in office." [1979 ex.s. c 103 § 7.]

Severability—1979 ex.s. c 103: "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." [1979 ex.s. c 103 § 8.]

Savings—Severability—1973 c 62: See notes following RCW 28B.10.510.

28B.20.105 Regents—Organization and conduct of business—Bylaws, rules and regulations—Meetings. The board shall organize by electing from its membership a president and an executive committee, of which committee the president shall be ex officio chairman. The board may adopt bylaws or rules and regulations for its own government. The board shall hold regular quarterly meetings, and during the interim between such meetings the executive committee may transact business for the whole board: PROVIDED, That the executive committee may call special meetings of the whole board when such action is deemed necessary. [1969 ex.s. c 223 § 28B.20.105. Prior: (i) 1909

c 97 p 240 § 4; RRS § 4555; prior: 1897 c 118 § 185. Formerly RCW 28.77.100. (ii) 1939 c 176 § 1, part; 1927 c 227 § 1, part; 1909 c 97 p 240 § 5, part; RRS § 4557, part. Formerly RCW 28.77.130, part.]

28B.20.110 Regents—Secretary—Treasurer—Duties—Treasurer's bond. The board shall appoint a secretary and a treasurer who shall hold their respective offices during the pleasure of the board and carry out such respective duties as the board shall prescribe. In addition to such other duties as the board prescribes, the secretary shall record all proceedings of the board and carefully preserve the same. The treasurer shall give bond for the faithful performance of the duties of his office in such amount as the regents may require: PROVIDED, That the university shall pay the fee for such bond. [1969 ex.s. c 223 § 28B.20.110. Prior: 1890 p 396 § 6; RRS § 4556. Formerly RCW 28.77.110.]

28B.20.115 Regents—Oaths. See RCW 28B.10.520.

28B.20.116 Regents—Expenses. See RCW 28B.10.525.

28B.20.117 Regents—Attorney general as advisor. See RCW 28B.10.510.

28B.20.130 Powers and duties of regents—General. General powers and duties of the board of regents are as follows:

(1) To have full control of the university and its property of various kinds, except as otherwise provided by law.

(2) To employ the president of the university, his assistants, members of the faculty, and employees of the institution, who except as otherwise provided by law, shall hold their positions during the pleasure of said board of regents.

(3) Establish entrance requirements for students seeking admission to the university which meet or exceed the standards specified under RCW 28B.80.350(2). Completion of examinations satisfactory to the university may be a prerequisite for entrance by any applicant at the university's discretion. Evidence of completion of public high schools and other educational institutions whose courses of study meet the approval of the university may be acceptable for entrance.

(4) Establish such colleges, schools or departments necessary to carry out the purpose of the university and not otherwise proscribed by law.

(5) With the assistance of the faculty of the university, prescribe the course of study in the various colleges, schools and departments of the institution and publish the necessary catalogues thereof.

(6) Grant to students such certificates or degrees as recommended for such students by the faculty. The board, upon recommendation of the faculty, may also confer honorary degrees upon persons other than graduates of this university in recognition of their learning or devotion to literature, art or science: PROVIDED, That no degree shall

ever be conferred in consideration of the payment of money or the giving of property of whatsoever kind.

(7) Accept such gifts, grants, conveyances, bequests and devises, whether real or personal property, or both, in trust or otherwise, for the use or benefit of the university, its colleges, schools, departments, or agencies; and sell, lease or exchange, invest or expend the same or the proceeds, rents, profits and income thereof except as limited by the terms of said gifts, grants, conveyances, bequests and devises. The board shall adopt proper rules to govern and protect the receipt and expenditure of the proceeds of all fees, and the proceeds, rents, profits and income of all gifts, grants, conveyances, bequests and devises above-mentioned, and shall make full report of the same in the customary biennial report to the governor and members of the legislature, or more frequently if required by law: PROVIDED, HOWEVER, That nothing herein contained shall be construed to repeal, amend or in any way modify any of the provisions of *RCW 28B.20.380.

(8) Except as otherwise provided by law, to enter into such contracts as the regents deem essential to university purposes.

(9) To submit upon request such reports as will be helpful to the governor and to the legislature in providing for the institution.

(10) Subject to the approval of the higher education coordinating board pursuant to RCW 28B.80.340, offer new degree programs, offer off-campus programs, participate in consortia or centers, contract for off-campus educational programs, and purchase or lease major off-campus facilities. [1985 c 370 § 92; 1977 c 75 § 20; 1969 ex.s. c 223 § 28B.20.130. Prior: 1939 c 176 § 1, part; 1927 c 227 § 1, part; 1909 c 97 p 240 § 5, part; RRS § 4557, part; prior: 1895 c 101 § 2, part; 1893 c 122 § 10, part; 1890 pp 396, 397, 398 §§ 7, 9, 11. Formerly RCW 28.77.130, 28.77.140.]

*Reviser's note: RCW 28B.20.380 was repealed by 1974 ex.s. c 174 § 2.

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

28B.20.134 Powers and duties of regents—Consent to sale of university granted lands. See RCW 79.01.096.

28B.20.135 Powers and duties of regents—Employment of architects, engineers, for construction of buildings and facilities. The board shall have power to employ or contract for the services of skilled architects and engineers to prepare plans and specifications, and supervise the construction of university buildings and facilities and to fix the compensation for such employees or for such services. [1969 ex.s. c 223 § 28B.20.135. Prior: 1909 c 97 p 242 § 10; RRS § 4563. Formerly RCW 28.77.133.]

28B.20.140 Powers and duties of regents—Contracts for erection of buildings or improvements. The board of regents shall enter into such contracts with one or more contractors for the erection and construction of university buildings or improvements thereto as in their judgment shall be deemed for the best interest of the university; such contract or contracts shall be let after public notice and under such regulations as shall be established by

said board or as otherwise provided by law to the person or persons able to perform the same on the most advantageous terms: PROVIDED, That in all cases said board shall require from contractors a good and sufficient bond for the faithful performance of the work, and the full protection of the state against mechanics' and other liens: AND PROVIDED FURTHER, That the board shall not have the power to enter into any contract for the erection of any buildings or improvements which shall bind said board to pay out any sum of money in excess of the amount provided for said purpose. [1969 ex.s. c 223 § 28B.20.140. Prior: 1909 c 97 p 242 § 9; RRS § 4562. Formerly RCW 28.77.137.]

28B.20.145 Powers and duties of regents—Regents' spending limited by income. The board of regents are hereby prohibited from creating any debt or in any manner encumbering the university beyond its capacity for payment thereof from the biennial income of the university for the then current biennium. [1969 ex.s. c 223 § 28B.20.145. Prior: 1890 p 399 § 20; RRS § 4566. Formerly RCW 28.77.170.]

28B.20.200 Faculty—Composition—General powers. The faculty of the University of Washington shall consist of the president of the university and the professors and the said faculty shall have charge of the immediate government of the institution under such rules as may be prescribed by the board of regents. [1969 ex.s. c 223 § 28B.20.200. Prior: 1909 c 97 p 241 § 6; RRS § 4558; prior: 1897 c 118 § 187. Formerly RCW 28.77.120.]

28B.20.250 Liability coverage of university personnel and students—Authorized—Scope. The board of regents of the University of Washington, subject to such conditions and limitations and to the extent it may prescribe, is authorized to provide by purchase of insurance, by self-insurance, or by any combination of arrangements, indemnification of regents, officers, employees, agents, and students from liability on any action, claim, or proceeding instituted against them arising out of the performance or failure of performance, of duties for or employment with the university, or of responsibilities imposed by approved programs of the university, and to hold such persons harmless from any expenses connected with the defense, settlement, or payment of monetary judgments from such action, claim, or proceeding. [1975-'76 2nd ex.s. c 12 § 1.]

28B.20.253 Liability coverage of university personnel and students—Self-insurance revolving fund—Created, contents, use. (1) A self-insurance revolving fund in the custody of the treasurer is hereby created to be used solely and exclusively by the board of regents of the University of Washington for the following purposes:

(a) The payment of judgments against the university, its schools, colleges, departments, and hospitals and against its regents, officers, employees, agents, and students for whom the defense of an action, claim, or proceeding has been provided pursuant to RCW 28B.20.250.

(b) The payment of claims against the university, its schools, colleges, departments, and hospitals and against its regents, officers, employees, agents, and students for whom

the defense of an action, claim, or proceeding has been provided pursuant to RCW 28B.20.250: PROVIDED, That payment of claims in excess of twenty-five hundred dollars must be approved by the state attorney general.

(c) For the cost of investigation, administration, and defense of actions, claims, or proceedings, and other purposes essential to its liability program.

(2) Said self-insurance revolving fund shall consist of periodic payments by the University of Washington from any source available to it in such amounts as are deemed reasonably necessary to maintain the fund at levels adequate to provide for the anticipated cost of payments of incurred claims and other costs to be charged against the fund.

(3) No money shall be paid from the self-insurance revolving fund unless first approved by the board of regents, and unless all proceeds available to the claimant from any valid and collectible liability insurance shall have been exhausted.

(4) The state investment board shall invest moneys in the self-insurance revolving fund. Moneys invested by the investment board shall be invested in accordance with RCW 43.84.150. [1991 sp.s. c 13 § 117; 1975-'76 2nd ex.s. c 12 § 2.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

28B.20.255 Liability coverage of university personnel and students—As exclusive authority. RCW 28B.20.250 through 28B.20.255 constitutes the exclusive authority for the board of regents of the University of Washington to provide liability coverage for its regents, officers, employees, agents, and students, and further provides the means for defending and payment of all such actions, claims, or proceedings. RCW 28B.20.250 through 28B.20.255 shall govern notwithstanding the provisions of chapter 4.92 RCW and RCW 28B.10.842 and 28B.10.844. [1975-'76 2nd ex.s. c 12 § 3.]

28B.20.277 Mathematics, engineering, and science achievement program—Establishment and administration through university. See RCW 28A.625.210.

28B.20.279 High-technology education and training. See chapter 28B.65 RCW.

28B.20.280 Masters and doctorate level degrees in technology authorized—Review by higher education coordinating board. The board of regents of the University of Washington may offer masters level and doctorate level degrees in technology subject to review and approval by the higher education coordinating board. [1985 c 370 § 82; 1983 1st ex.s. c 72 § 10.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Effective date—Short title—1983 1st ex.s. c 72: See RCW 28B.65.905 and 28B.65.900.

28B.20.283 Washington technology center—Findings. The legislature finds that the development and commercialization of new technology is a vital part of economic development.

The legislature also finds that it is in the interests of the state of Washington to provide a mechanism to transfer and apply research and technology developed at the institutions of higher education to the private sector in order to create new products and technologies which provide job opportunities in advanced technology for the citizens of this state.

It is the intent of the legislature that the University of Washington, the Washington State University, and the department of trade and economic development work cooperatively with the private sector in the development and implementation of a world class technology transfer program. [1992 c 142 § 1.]

28B.20.285 Washington technology center—Created—Purpose. A Washington technology center is created to be a collaborative effort between the state's universities, private industry, and government. The technology center shall be headquartered at the University of Washington. The mission of the technology center shall be to perform and commercialize research on a state-wide basis that benefits the intermediate and long-term economic vitality of the state of Washington, and to develop and strengthen university-industry relationships through the conduct of research that is primarily of interest to Washington-based companies or state economic development programs. The technology center shall:

(1) Perform and/or facilitate research supportive of state science and technology objectives, particularly as they relate to state industries;

(2) Provide leading edge collaborative research and technology transfer opportunities primarily to state industries;

(3) Provide substantial opportunities for training undergraduate and graduate students through direct involvement in research and industry interactions;

(4) Emphasize and develop nonstate support of the technology center's research activities; and

(5) Provide a forum for effective interaction between the state's technology-based industries and its academic research institutions through promotion of faculty collaboration with industry, particularly within the state. [1992 c 142 § 3; 1983 1st ex.s. c 72 § 11.]

Effective date—Short title—1983 1st ex.s. c 72: See RCW 28B.65.905 and 28B.65.900.

28B.20.287 Washington technology center—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 28B.20.285 and *28B.20.289 through 28B.20.295.

(1) "Technology center" means the Washington technology center, including the affiliated staff, faculty, facilities, and research centers operated by the technology center.

(2) "Board" means the board of directors of the Washington technology center.

(3) "High technology" or "technology" includes but is not limited to the modernization, miniaturization, integration, and computerization of electronic, hydraulic, pneumatic, laser, mechanical, robotics, nuclear, chemical, telecommunication, and other technological applications to enhance productivity in areas including but not limited to manufacturing, communications, medicine, bioengineering, and commerce. [1992 c 142 § 2.]

***Reviser's note:** The reference to "sections 3 through 8 of this act" has been translated to "RCW 28B.20.289 through 28B.20.295." A literal translation would have been "RCW 28B.20.285 through 28B.20.295 and 1992 c 142 § 8 (uncodified)."

28B.20.289 Washington technology center—Administration—Board of directors. (1) The technology center shall be administered by the board of directors of the technology center.

(2) The board shall consist of the following members: Fourteen members from among individuals who are associated with or employed by technology-based industries and have broad business experience and an understanding of high technology; eight members from the state's universities with graduate science and engineering programs; the executive director of the Spokane Intercollegiate Research and Technology Institute or his or her designated representative; the provost of the University of Washington or his or her designated representative; the provost of the Washington State University or his or her designated representative; and the director of the state department of trade and economic development or his or her designated representative. The term of office for each board member, excluding the executive director of the Spokane Intercollegiate Research and Technology Institute, the provost of the University of Washington, the provost of the Washington State University, and the director of the state department of trade and economic development, shall be three years. The executive director of the technology center shall be an ex officio, nonvoting member of the board. The board shall meet at least quarterly. Board members shall be appointed by the governor based on the recommendations of the existing board of the technology center, and the research universities. The governor shall stagger the terms of the first group of appointees to ensure the long term continuity of the board.

(3) The duties of the board include:

(a) Developing the general operating policies for the technology center;

(b) Appointing the executive director of the technology center;

(c) Approving the annual operating budget of the technology center;

(d) Establishing priorities for the selection and funding of research projects that guarantee the greatest potential return on the state's investment;

(e) Approving and allocating funding for research projects conducted by the technology center, based on the recommendations of the advisory committees for each of the research centers;

(f) In cooperation with the department of trade and economic development, developing a biennial work plan and five-year strategic plan for the technology center that are consistent with the state-wide technology development and commercialization goals;

(g) Coordinating with the University of Washington, Washington State University, and other participating institutions of higher education in the development of training, research, and development programs to be conducted at the technology center that shall be targeted to meet industrial needs;

(h) Assisting the department of trade and economic development in the department's efforts to develop state

science and technology public policies and coordinate publicly funded programs;

(i) Reviewing annual progress reports on funded research projects that are prepared by the advisory committees for each of the research centers;

(j) Providing an annual report to the governor and the legislature detailing the activities and performance of the technology center; and

(k) Submitting annually to the department of trade and economic development an updated strategic plan and a statement of performance measured against the mission, roles, and contractual obligations of the technology center. [1992 c 142 § 4.]

28B.20.291 Washington technology center—Support from participating institutions. The University of Washington, Washington State University, and other participating institutions of higher education shall provide the affiliated staff, faculty, and facilities required to support the operation of the technology center. [1992 c 142 § 5.]

28B.20.293 Washington technology center—Role of department of trade and economic development. The department of trade and economic development shall contract with the University of Washington for the expenditure of state-appropriated funds for the operation of the Washington technology center. The department of trade and economic development shall provide guidance to the technology center regarding expenditure of state-appropriated funds and the development of the center's strategic plan. The director of the department of trade and economic development shall not withhold funds appropriated for the technology center if the technology center complies with the provisions of its contract with the department of trade and economic development. The department shall be responsible to the legislature for the contractual performance of the center. [1992 c 142 § 6.]

28B.20.295 Washington technology center—Availability of facilities to other institutions. The facilities of the technology center shall be made available to other institutions of higher education within the state when this would benefit specific program needs. [1992 c 142 § 7.]

28B.20.300 Schools of medicine, dentistry, and related health services—Authorization. The board of regents of the University of Washington is hereby authorized and directed forthwith to establish, operate and maintain schools of medicine, dentistry, and related health sciences at the university. [1969 ex.s. c 223 § 28B.20.300. Prior: 1945 c 15 § 1; Rem. Supp. 1945 § 4566-5. Formerly RCW 28.77.200.]

Autopsy of deceased infant under three years, delivery of body to University of Washington medical school for purposes of, costs: RCW 68.50.100, 68.50.104.

Requisites for accreditation and approval of medical schools: RCW 18.71.055.

28B.20.305 Schools of medicine, dentistry, and related health services—Purpose. The aim and purpose of the schools of medicine, dentistry and related health sciences

shall be to provide for students of both sexes, on equal terms, all and every type of instruction in the various branches of medicine, dentistry, and related health sciences and to grant such degrees as are commonly granted by similar institutions. [1969 ex.s. c 223 § 28B.20.305. Prior: 1945 c 15 § 2; Rem. Supp. 1945 § 4566-6. Formerly RCW 28.77.210.]

28B.20.315 Drug testing laboratory—Service—Employees as expert witnesses, traveling expenses and per diem. The University of Washington is authorized and directed to arrange for a drug testing laboratory. The laboratory shall offer a testing service for law enforcement officers for the identification of known or suspected dangerous and narcotic drugs. Employees of the laboratory are authorized to appear as expert witnesses in criminal trials held within the state: PROVIDED, That the traveling expenses and per diem of such employees shall be borne by the party for the benefit of whom the testimony of such employees is requested. [1969 ex.s. c 266 § 1. Formerly RCW 28.77.215.]

28B.20.320 Marine biological preserve—Established and described. There is hereby created an area of preserve of marine biological materials useful for scientific purposes, except when gathered for human food, and except, also, the plant nereocystis, commonly called "kelp." Said area of preserve shall consist of the salt waters and the beds and shores of the islands constituting San Juan county and of Cypress Island in Skagit county. [1969 ex.s. c 223 § 28B.20.320. Prior: 1923 c 74 § 1; RRS § 8436-1. Formerly RCW 28.77.230.]

28B.20.322 Marine biological preserve—Gathering permit. No person shall gather said marine biological materials from said area of preserve, except upon permission first granted by the director of the Friday Harbor Laboratories of the University of Washington. [1969 ex.s. c 223 § 28B.20.322. Prior: 1923 c 74 § 2; RRS § 8436-2. Formerly RCW 28.77.231, 28.77.230, part.]

28B.20.324 Marine biological preserve—Penalty for unlawful gathering. Any person gathering said marine biological materials contrary to the terms of RCW 28B.20.320 and 28B.20.322 shall be guilty of a misdemeanor. [1969 ex.s. c 223 § 28B.20.324. Prior: 1923 c 74 § 3; RRS § 8436-3. Formerly RCW 28.77.232, 28.77.230, part.]

28B.20.328 Lease of lands with outdoor recreation potential—Restrictions—Unlawful to use posted lands. (1) Any lease of public lands with outdoor recreation potential authorized by the regents of the University of Washington shall be open and available to the public for compatible recreational use unless the regents of the University of Washington determine that the leased land should be closed in order to prevent damage to crops or other land cover, to improvements on the land, to the lessee, or to the general public or is necessary to avoid undue interference with carrying forward a university program. Any lessee may file an application with the regents of the University of Washington to close the leased land to any public use. The

regents shall cause a written notice of the impending closure to be posted in a conspicuous place in the university's business office and in the office of the county auditor in which the land is located thirty days prior to the public hearing. This notice shall state the parcel or parcels involved and shall indicate the time and place of the public hearing. Upon a determination by the regents that posting is not necessary, the lessee shall desist from posting. Upon a determination by the regents that posting is necessary, the lessee shall post his leased premises so as to prohibit recreational uses thereon. In the event any such lands are so posted, it shall be unlawful for any person to hunt or fish, or for any person other than the lessee or his immediate family to use any such posted lands for recreational purposes.

(2) The regents of the University of Washington may insert the provisions of subsection (1) of this section in all leases hereafter issued. [1969 ex.s. c 46 § 3. Formerly RCW 28.77.235.]

28B.20.330 Rights-of-way to railroads and street car railways—Conditions. Any railroad company now having in operation a line of railroad, or branches, sidings, or spurs thereof, upon any property in this state in use by the University of Washington for university purposes, or as a part of the grounds set aside or devoted to university purposes, may have such right-of-way confirmed to it, its successors and assigns, upon the following terms and conditions: Such railroad company shall file with the board of regents of said university a plat showing the right-of-way desired, and shall file a duplicate thereof with the commissioner of public lands; and any railroad company or street car company desiring hereafter to construct a railroad or street car line, or extensions thereof, with branches, sidings, or spurs, upon any property in this state in use by the University of Washington for university purposes, or as a part of the ground set aside or devoted to university purposes, may have such right-of-way confirmed to it, its successors and assigns, upon the following terms and conditions: Such railroad company or street car company shall file with the board of regents of said university a plat showing the right-of-way desired, and shall file a duplicate thereof with the commissioner of public lands. [1969 ex.s. c 223 § 28B.20.330. Prior: 1909 c 248 § 1; RRS § 8095. Formerly RCW 28.77.240.]

28B.20.332 Rights-of-way to railroads and street car railways—Regents to make agreement. The board of regents of said University of Washington are authorized, upon the filing of such plat with it, to agree in writing with any such railroad company or street car company, upon the boundaries and the extent of such right-of-way, the manner in which the same shall be maintained and fenced and occupied, and prescribe the number, character, and maintenance of crossings, cross-overs, and subways, and as to what sum said railroad company or street car company shall pay for the right-of-way granted. [1969 ex.s. c 223 § 28B.20.332. Prior: 1909 c 248 § 2; RRS § 8096. Formerly RCW 28.77.250.]

28B.20.334 Rights-of-way to railroads and street car railways—Form of deed—Certified copy filed. If

such agreement is entered into, said board of regents shall transmit a certified copy thereof to the commissioner of public lands, who shall, after the full amount of money provided in such agreement shall be paid by said railroad company or street car company to the state treasurer, issue to such railroad company or street car company, in the name of the state of Washington, a deed for the right-of-way described in such agreement, which said deed shall recite and be subject to all the terms and conditions of such agreement, and certified copies of said deed shall be filed, one in the office of the commissioner of public lands, and the other with the secretary of said board of regents. [1969 ex.s. c 223 § 28B.20.334. Prior: 1909 c 248 § 3; RRS § 8097. Formerly RCW 28.77.260.]

28B.20.336 Rights-of-way to railroads and street car railways—Deed conveys conditional easement. The conveyance herein provided for shall not be deemed to convey the fee to the land described, but an easement only thereover and for railroad or street car purposes only, and when the right-of-way granted as aforesaid shall not be used for the purposes for which it was granted, then and thereupon the easement right shall immediately become void. [1969 ex.s. c 223 § 28B.20.336. Prior: 1909 c 248 § 4; RRS § 8098. Formerly RCW 28.77.270.]

28B.20.340 University site dedicated for street and boulevard purposes—Description. There is hereby dedicated to the public for street and boulevard purposes the following described lands situated in section 16, township 25 north, range 4 east, W.M., and blocks 7 and 8 of Lake Washington shore lands, to wit: Beginning at the one-quarter (1/4) corner on the north line of said section sixteen (16); thence east along the north line thereof, a distance of three hundred forty-nine and thirty-four one-hundredths (349.34) feet; thence south at right angles to the said north line, a distance of thirty-five feet to the point of beginning of this description; thence south eighty-nine degrees fifty-seven minutes and forty-three seconds (89°57'43") east a distance of six hundred seventy-three and seventeen one-hundredths (673.17) feet; thence southwesterly along the arc of a curve to the left, having a uniform radius of one thousand (1,000) feet, said curve being tangent to the last above described line, a distance of one thousand three hundred seventy-three and six one-hundredths (1,373.06) feet to a point of tangency; thence south eleven degrees twenty-two minutes and two seconds (11°22'02") west, a distance of five hundred fifty-six and twenty-two one-hundredths (556.22) feet to a point of tangency on the easterly margin of Montlake Boulevard as laid off and established by Ordinance No. 26332; thence along said easterly margin northerly along the arc of a curve to the left, having a uniform radius of four hundred sixty (460) feet, a distance of one hundred forty-three and forty-one one-hundredths (143.41) feet to a point of a reverse curve; thence northerly along the arc of a curve to the right having a uniform radius of four hundred sixty (460) feet, a distance of one hundred twenty and ninety-four one-hundredths (120.94) feet to a point of reverse curve; thence northerly along the arc of a curve to the left, having a uniform radius of two thousand nine hundred seventy-four and ninety-three one-hundredths

(2,974.93) feet, a distance of two hundred eighty-four (284) feet; thence departing from said easterly margin north eleven degrees twenty-two minutes and two seconds (11°22'02") east, a distance of fourteen and seventy-four one-hundredths (14.74) feet to the beginning of a curve to the right, having a uniform radius of one thousand seventy (1,070) feet; thence northeasterly along the arc of said curve, a distance of seven hundred ninety-six and thirty-three one-hundredths (796.33) feet to a point of reverse curve; thence northeasterly, northerly and northwesterly along the arc of a curve to the left, having a uniform radius of seventy-four and forty-six one-hundredths (74.46) feet, a distance of one hundred eighty-seven and ten one-hundredths (187.10) feet to the point of beginning.

Also the following described lands, to wit: Beginning at a point on the east line of said section, said point being distant nine hundred eighty-nine and sixty one-hundredths (989.60) feet south from the northeast corner of said section; thence south along said east line a distance of four hundred seventy-nine and fifty-three one-hundredths (479.53) feet to a point on the government meander line along the shore of Lake Washington; thence along said meander line south seventy-eight degrees thirteen minutes thirty-three seconds (78°13'33") west, a distance of sixty-six and fifty one-hundredths (66.50) feet; thence north twenty-nine degrees forty-six minutes twenty-seven seconds (29°46'27") west, a distance of one hundred sixty-six and ninety-two one-hundredths (166.92) feet; thence departing from said meander line north no degrees fifty-three minutes seven seconds (0°53'07") east, a distance of three hundred fifty-four and sixty-three one-hundredths (354.63) feet; thence northwesterly along the arc of a curve to the right having a uniform radius of one hundred eighty-five (185) feet, a distance of twenty-two and two one-hundredths (22.02) feet to a point of tangency on a line which bears north twenty-nine degrees six minutes fifty-three seconds (29°06'53") west; thence northwesterly along said line, a distance of nine hundred eighteen and sixty-five one-hundredths (918.65) feet to the beginning of a curve to the left, having a uniform radius of two hundred fifty (250) feet; thence northwesterly along the arc of said curve, a distance of two hundred sixty-five and fifty one-hundredths (265.50) feet to a point of tangency on the south margin of East Forty-fifth Street; thence east along said south margin, a distance of three hundred twenty-nine and fourteen one-hundredths (329.14) feet to a point which is distant five hundred ten and seventy-nine one-hundredths (510.79) feet west from the east line of said section sixteen (16); thence southwesterly, southerly and southeasterly along the arc of a curve to the left having a uniform radius of sixty (60) feet a distance of one hundred twenty-four and seventy-eight one-hundredths (124.78) feet to a point of tangency; thence south twenty-nine degrees six minutes fifty-three seconds (29°06'53") east, a distance of nine hundred twenty-four and twenty-four one-hundredths (924.24) feet to the beginning of a curve to the left having a uniform radius of one hundred fifteen (115) feet; thence southeasterly along the arc of said curve, a distance of one hundred twenty and fifty-one one-hundredths (120.51) feet to the point of beginning. [1969 ex.s. c 223 § 28B.20.340. Prior: 1913 c 24 § 1. Formerly RCW 28.77.280.]

28B.20.342 University site dedicated for street and boulevard purposes—Local assessments barred against site. No assessments for the opening, improvement or maintenance of any public street upon the tracts of land described in RCW 28B.20.340 shall ever be levied, assessed or collected upon any portion of section 16, township 25 north, range 4 east, W.M., or upon any portion of blocks 7 and 8 Lake Washington shorelands. [1969 ex.s. c 223 § 28B.20.342. Prior: 1913 c 24 § 2. Formerly RCW 28.77.290.]

28B.20.344 University site dedicated for street and boulevard purposes—Eminent domain may not be exercised against site. The power of eminent domain of any municipal or other corporation whatever is hereby declared not to extend to any portion of said section 16, township 25 north, range 4 east, W.M., and blocks 7 and 8 of Lake Washington shorelands. [1969 ex.s. c 223 § 28B.20.344. Prior: 1913 c 24 § 3. Formerly RCW 28.77.300.]

28B.20.350 1947 conveyance for arboretum and botanical garden purposes—Description. There is hereby granted to the University of Washington the following described land, to wit:

Lots two (2) and three (3), Block eleven-A (11-A) of the supplemental map of Lake Washington shorelands, filed September 5, 1916 in the office of the commissioner of public lands, to be used for arboretum and botanical garden purposes and for no other purposes, except as provided in RCW 28B.20.354. [1969 ex.s. c 223 § 28B.20.350. Prior: 1947 c 45 § 1. Formerly RCW 28.77.310.]

28B.20.352 1947 conveyance for arboretum and botanical garden purposes—Deed of conveyance. The commissioner of public lands is hereby authorized and directed to certify the lands described in RCW 28B.20.350 to the governor, and the governor is hereby authorized and directed to execute, and the secretary of state to attest, a deed of said shorelands to the university. [1969 ex.s. c 223 § 28B.20.352. Prior: 1947 c 45 § 2. Formerly RCW 28.77.315.]

28B.20.354 1947 conveyance for arboretum and botanical garden purposes—Part may be conveyed by regents to city of Seattle. (1) The board of regents of the University of Washington is hereby authorized to convey to the city of Seattle that portion of said lot three (3) of the shorelands described in RCW 28B.20.350 which is within the following described tract, to wit:

A rectangular tract of land one hundred twenty (120) feet in north-south width, and four hundred (400) feet in east-west length, with the north boundary coincident with the north boundary of the old canal right of way, and the west boundary on the southerly extension of the west line of Lot eleven (11), Block four (4), Montlake Park, according to the recorded plat thereof, approximately five hundred sixty (560) feet east of the east line of Montlake Boulevard.

(2) The board of regents is authorized to convey to the city of Seattle free of all restrictions or limitations, or to incorporate in the conveyance to the city of Seattle such

provisions for reverter of said land to the university as the board deems appropriate. Should any portion of the land so conveyed to the city of Seattle again vest in the university by reason of the operation of any provisions incorporated by the board in the conveyance to the city of Seattle, the University of Washington shall hold such reverted portion subject to the reverter provisions of RCW 28B.20.356. [1969 ex.s. c 223 § 28B.20.354. Prior: 1947 c 45 § 3. Formerly RCW 28.77.320.]

28B.20.356 1947 conveyance for arboretum and botanical garden purposes—Reversion for unauthorized use—Reconveyance for highway purposes. In case the University of Washington should attempt to use or permit the use of such shorelands or any portion thereof for any other purpose than for arboretum and botanical garden purposes, except as provided in RCW 28B.20.354, the same shall forthwith revert to the state of Washington without suit, action or any proceedings whatsoever or the judgment of any court forfeiting the same: PROVIDED, That the board of regents of the University of Washington is hereby authorized and directed to reconvey to the state of Washington block eleven-A (11-A) of the supplemental map of Lake Washington shorelands, filed September 5, 1916 in the office of the commissioner of public lands, or such portion thereof as may be required by the state of Washington or any agency thereof for state highway purposes. The state of Washington or any agency thereof requiring said land shall pay to the University of Washington the fair market value thereof and such moneys paid shall be used solely for arboretum purposes. Such reconveyance shall be made at such time as the state or such agency has agreed to pay the same. [1969 ex.s. c 223 § 28B.20.356. Prior: 1959 c 164 § 2; 1947 c 45 § 4; No RRS. Formerly RCW 28.77.330.]

28B.20.360 1939 conveyance of shorelands to university—Description. The commissioner of public lands of the state of Washington is hereby authorized and directed to certify in the manner now provided by law to the governor for deeding to the University of Washington all of the following described Lake Washington shorelands, to wit: Blocks sixteen (16) and seventeen (17), Lake Washington Shorelands, as shown on the map of said shorelands on file in the office of the commissioner of public lands. [1969 ex.s. c 223 § 28B.20.360. Prior: 1939 c 60 § 1; No RRS. Formerly RCW 28.77.333.]

28B.20.362 1939 conveyance of shorelands to university—Deed of conveyance. The governor is hereby authorized and directed to execute, and the secretary of state to attest, a deed conveying to the University of Washington all of said shorelands. [1969 ex.s. c 223 § 28B.20.362. Prior: 1939 c 60 § 2; No RRS. Formerly RCW 28.77.335.]

28B.20.364 1939 conveyance of shorelands to university—Grant for arboretum and botanical garden purposes—Reversion for unauthorized use—Reconveyance for highway purposes. All of the shorelands described in RCW 28B.20.360 are hereby granted to the University of Washington to be used for arboretum and botanical garden purposes and for no other purposes. In

case the said University of Washington should attempt to use or permit the use of said shorelands or any portion thereof for any other purpose, the same shall forthwith revert to the state of Washington without suit, action or any proceedings whatsoever or the judgment of any court forfeiting the same: PROVIDED, That the board of regents of the University of Washington is hereby authorized and directed to reconvey to the state of Washington blocks 16 and 17 of Lake Washington shorelands, or such portions thereof as may be required by the state of Washington or any agency thereof for state highway purposes. The state of Washington or any agency thereof requiring said land shall pay to the University of Washington the fair market value thereof and such moneys paid shall be used solely for arboretum purposes. Such reconveyance shall be made at such time as the state or such agency has agreed to pay the same. [1969 ex.s. c 223 § 28B.20.364. Prior: 1959 c 164 § 1; 1939 c 60 § 3; No RRS. Formerly RCW 28.77.337.]

28B.20.370 Transfer of certain Lake Union shorelands to university. Block 18-A, Second Supplemental Maps of Lake Union Shore Lands, as shown on the official maps thereof on file in the office of the commissioner of public lands, is hereby transferred to the University of Washington and shall be held and used for university purposes only. [1969 ex.s. c 223 § 28B.20.370. Prior: 1963 c 71 § 1. Formerly RCW 28.77.339.]

28B.20.382 Old university grounds or metropolitan tract, conditions for sale, lease or lease renewal—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 the legislative budget committee, including one copy to the staff of the committee, 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 committees of the senate or the house of representatives or the legislative budget committee or any successor committees. 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. [1987 c 505 § 13; 1980 c 87 § 10; 1977 ex.s. c 365 § 1; 1974 ex.s. c 174 § 1.]

28B.20.390 Additional powers of regents as to old university grounds—Definitions. For the purposes of RCW 28B.20.392, 28B.20.396 and 28B.20.398—(1) the word "board" means the board of regents of the University of Washington;

(2) the word "leasehold" and the term "leasehold interest" mean the interest of the lessee in the university tract under the lease entered into on the first day of February, 1907, between the state of Washington, as lessor, and James A. Moore, as lessee, and thereafter assigned by said lessee to the Metropolitan Building Company, a corporation;

(3) the verb "to lease" includes the power to let for a term the whole or any portions of the land or of any building or buildings or other improvements thereon or appurtenances thereto, at rentals determined upon the basis of either—

(a) an agreed amount either with or without provision for periodic adjustment therein for the term, or

(b) a percentage of sales, receipts or income for the term, or

(c) a percentage of sales, receipts or income with a guaranteed minimum rental for the term, either with or without duty on the part of the lessee or lessor to construct new buildings or other improvements or to reconstruct, alter, remodel or add to existing buildings; and

(4) the term "university tract" means the tract of land in the city of Seattle, consisting of approximately ten acres, originally known as the "old university grounds" and more recently referred to as the "Metropolitan tract", together with all buildings, improvements and facilities thereon and appurtenances thereto. [1969 ex.s. c 223 § 28B.20.390. Prior: 1947 c 284 § 1; Rem. Supp. 1947 § 4566-11. Formerly RCW 28.77.350.]

28B.20.392 Additional powers of regents as to old university grounds—Enumeration of. In addition to the powers conferred under the deeds of conveyance and under existing law the board is authorized, and shall have the power subject to *RCW 28B.20.380,—

(1) to acquire by purchase, to sublease or to otherwise acquire, from the lessees of the university tract the unexpired portion of the leasehold interest in said tract prior to the date of its stipulated expiration and to pay, or make provision for payment, to the holder of the leasehold such amount as may be agreed upon between the board and the holder of such leasehold interest, and

(2) upon and after either such acquisition or the expiration of the leasehold—

(a) to operate and manage or lease, in whole or in part, the university tract, such operation and management or leasing to be accomplished, at the discretion of the board, either—

(i) directly by the board, or

(ii) through an agent or agents appointed for that purpose, or

(iii) through the medium of a corporation or corporations created for that purpose; and

(b) either directly or by contract, at fixed price or upon cost-plus-a-fixed-fee basis,—

(i) to construct new buildings on, or

(ii) to raze, reconstruct, alter, remodel or add to existing buildings on, or

(iii) to otherwise improve,

the university tract, and to lease or to acquire, by purchase or gift, land and rights necessary or convenient for the maximum utilization and development of the said tract; and

(3) if the unexpired portion of the leasehold interest in the university tract is not acquired prior to the date of its stipulated expiration, in the meantime—

(a) to enter into agreements to lease the university tract, in whole or in part, for any period beginning on or after November 1, 1954, either with or without concurrent action by the holder of the unexpired portion of the leasehold interest in said tract; and

(b) to exercise any of the powers enumerated in subdivision (2)(b) of this section, upon agreement with the holder of the unexpired portion of the leasehold interest in the university tract for its improvement prior to the expiration of such leasehold term; and

(4) to borrow money required for the accomplishment of any object or purpose specified in subdivisions (1), (2) or (3) of this section and to issue warrants or bonds therefor, to provide for amortization thereof and to pay said warrants or bonds, at or prior to maturity, out of the income derived from operating, managing and leasing the university tract; and

(5) (a) to receive all rental and other income from the university tract, and

(b) to designate depositaries thereof, and

(c) to hold and invest and to pay or discharge out of the same (i) all expenses of operation, management, maintenance, repair and upkeep of said tract and (ii) any obligations incurred in conformity with the powers granted under the provisions of subdivision (4) of this section; and

(d) to apply the net proceeds therefrom to the use of the University of Washington: PROVIDED, That until the acquisition or expiration of the leasehold interest in the said tract the rental therefrom shall be applied as provided in RCW 43.79.090. [1969 ex.s. c 223 § 28B.20.392. Prior: 1947 c 284 § 2; Rem. Supp. 1947 § 4566-12. Formerly RCW 28.77.360.]

*Reviser's note: RCW 28B.20.380 was repealed by 1974 ex.s. c 174 § 2.

28B.20.394 Additional powers of regents as to old university grounds—Agreements to pay city and county for governmental services. In addition to the powers conferred upon the board of regents of the University of Washington by RCW 28B.20.392 and *28B.20.380, said board is authorized and shall have the power to enter into an agreement or agreements with the city of Seattle and the county of King, Washington, to pay to said city and said county such sums as shall be mutually agreed upon for governmental services rendered to said university tract, as defined in RCW 28B.20.390 which sums shall not exceed

the amounts that would be received pursuant to limitations imposed by RCW 84.52.043 by the said city of Seattle and county of King respectively from real and personal property taxes paid on the university tract or any leaseholds thereon if such taxes could lawfully be levied; and any such sums so agreed upon shall be paid from the proceeds and other income from said tract as an item of expense of operation and upkeep thereof: PROVIDED, That in the event that it is determined by a court of final jurisdiction that the provisions of chapter 43, Laws of 1971 first ex. sess., insofar as they affect taxes due and payable in 1972 and 1973 by any lessee of the university tract, are held unconstitutional, the sums paid pursuant to this section in such years shall be refunded in accordance with the provisions of chapter 84.69 RCW; and any provision of RCW 28B.20.392 in conflict herewith is superseded. [1973 1st ex.s. c 195 § 10; 1972 ex.s. c 107 § 1; 1969 ex.s. c 223 § 28B.20.394. See also 1973 1st ex.s. c 195 § 140. Prior: 1955 c 229 § 1. Formerly RCW 28.77.361.]

*Reviser's note: RCW 28B.20.380 was repealed by 1974 ex.s. c 174 § 2.

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

28B.20.396 Additional powers of regents as to old university grounds—Bonds may be issued—Form, terms, etc. Bonds issued pursuant to the authority granted under subdivision (4) of RCW 28B.20.392—

(1) shall not constitute (a) an obligation, either general or special, of the state or (b) a general obligation of the University of Washington or of the board;

(2) shall be—

(a) either in bearer form or in registered form as provided in RCW 39.46.030, and

(b) issued in denominations of not less than one hundred dollars;

(3) shall state—

(a) the date of issue, and

(b) the series of the issue and be consecutively numbered within the series, and

(c) that the bond is payable only out of a special fund established for the purpose, and designate the fund;

(4) shall bear interest, payable either annually, or semiannually as the board may determine;

(5) shall be payable solely out of—

(a) revenue derived from operating, managing and leasing the university tract, and

(b) a special fund, created by the board for the purpose, consisting either of (i) a fixed proportion, or (ii) a fixed amount out of and not exceeding a fixed proportion, or (iii) a fixed amount without regard to any fixed proportion, of the revenue so derived;

(6) may contain covenants by the board in conformity with the provisions of RCW 28B.20.398(2);

(7) shall be payable at such times over a period of not to exceed thirty years, in such manner and at such place or places as the board determines;

(8) shall be executed in such manner as the board by resolution determines;

(9) shall be sold in such manner as the board deems for the best interest of the University of Washington. [1983 c 167 § 33; 1970 ex.s. c 56 § 25; 1969 ex.s. c 232 § 99; 1969

ex.s. c 223 § 28B.20.396. Prior: 1947 c 284 § 3; Rem. Supp. 1947 § 4566-13. Formerly RCW 28.77.370.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

Purpose—1970 ex.s. c 56: See note following RCW 39.52.020.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.52.020.

28B.20.398 Additional powers of regents as to old university grounds—Covenants of bonds—Special fund—Contractual nature of law—Redemption—Action to compel payment into fund—Temporary bonds. (1) Any resolution of the board pursuant to the provisions of subdivision (4) of RCW 28B.20.392 shall provide for the creation of a special fund, in conformity with the provisions of subdivision (5)(b) of RCW 28B.20.396.

(2) Any resolution authorizing the issuance of bonds pursuant to the provisions of RCW 28B.20.390, 28B.20.392, 28B.20.396 and 28B.20.398 may contain covenants of the board to protect and safeguard the security and rights of the owners of any such bonds such as are then customary in connection with similar bonds and considered advisable in order to assure the maximum marketability for said bonds. Without limiting the generality of the foregoing, any such resolution may contain covenants as to—

(a) the creation of a special fund into which the proceeds of all bonds issued pursuant to the provisions of such resolution shall be deposited, the terms and conditions upon which payments may be made from such special fund, and for the payment of interest on bonds issued pursuant to such resolution from the moneys in said fund;

(b) maintaining rental and leasehold rates and other charges at a level sufficient at all times to provide revenue (i) to pay the interest on and principal of all bonds and other obligations payable from said revenue, (ii) to make all other payments from said revenues required under the provisions of any resolution adopted in connection with the issuance of warrants or bonds under RCW 28B.20.390, 28B.20.392, 28B.20.396 and 28B.20.398 and (iii) to pay the operating, management, maintenance, repair and upkeep costs of the university tract;

(c) collection, deposit, custody and disbursement of the revenues from the university tract or any portions thereof including (i) a specification of the depositaries to be designated, and (ii) authorization of such depositaries, or other banks or trust companies, to act as fiscal agent of the board for the custody of the proceeds of bonds and the moneys held in any funds created pursuant to RCW 28B.20.390, 28B.20.392, 28B.20.396 and 28B.20.398, or any resolution authorizing such bonds, and to represent bond owners in the event of a default on such bonds or in the event of a default in the performance of any duty or obligation of the board in connection therewith, with such power and duty as such resolution may provide;

(d) creation and administration of reserve and other funds for the payment, at or prior to maturity, of any indebtedness chargeable against the revenues from the university tract and for creation of working funds, depreciation funds, replacement funds, reserves for extraordinary repairs and any other fund deemed necessary or desirable to insure the continued profitable operation of the said university tract;

(e) deposit of collateral security or indemnity bonds to secure the proceeds (i) of bonds issued pursuant to the provisions of such resolution and (ii) of all revenues which are pledged to secure the repayment of bonds issued pursuant to the provisions of such resolution and (iii) of all moneys deposited in any special fund created under the authority of RCW 28B.20.390, 28B.20.392, 28B.20.396 and 28B.20.398 or any covenant thereunder;

(f) the obligation of the board to maintain the building or buildings in good condition and to operate and manage the same in an economical and efficient manner;

(g) the amount and kind of insurance to be carried by the board in connection with the building or buildings, the companies in which such insurance shall be carried, the term thereof, the application of the proceeds of any such insurance, and adjustments of losses under any such policy of insurance;

(h) limitations upon the amount of additional bonds, warrants and other obligations payable out of the revenues from the building or buildings which may be thereafter issued and the terms and conditions upon which such additional bonds, warrants or other obligations may be issued;

(i) limitations upon the creation of additional liens or encumbrances on the building or buildings or the personal property used in connection therewith;

(j) the terms and conditions upon which the building or buildings, or any part thereof, may be sold, mortgaged, leased or otherwise disposed of, and the use or other disposition of the proceeds of any such sale, mortgage or lease;

(k) the methods of operation, management and maintenance of the building or buildings;

(l) accounting and auditing and the keeping of records, reports and audits with respect to the building or buildings;

(m) the amendment or modification of any resolution authorizing the issuance of bonds pursuant to the provisions of RCW 28B.20.390, 28B.20.392, 28B.20.396 and 28B.20.398, including the terms and conditions upon which such amendment or modification may be effected and the number, amount or percentage of assenting bonds necessary to effectuate the same;

(n) limitations upon the use of space or facilities in the building or buildings without payment therefor; and

(o) such other matters as may be necessary or desirable to insure a successful and profitable operation of the building or buildings.

(3) The term "building or buildings" as used in subdivision (2) of this section means the building or buildings or improvements upon the university tract with respect to which the revenues are pledged, under the terms of the resolution, to secure the payment of bonds issued under such resolution.

(4) The provisions of RCW 28B.20.390, 28B.20.392, 28B.20.396 and 28B.20.398 and of any resolution adopted in conformity with the provisions of this section shall constitute a contract with the owners of warrants or bonds issued pursuant thereto, and the provisions thereof shall be enforceable in any court of competent jurisdiction by any owner of such warrants or bonds by mandamus or any other appropriate suit, action or proceeding at law or in equity.

(5) Bonds issued pursuant to the provisions of RCW 28B.20.390, 28B.20.392, 28B.20.396 and 28B.20.398 may be

redeemed, at the option of the board, at such time or times, upon such terms and conditions, and at such premiums as the board specifies in the resolution.

(6) If the board fails to pay the required amounts into the special fund, established in conformity with subdivision (2) of this section, the owner of any bond or bonds affected thereby may maintain an action against the board to compel compliance with the terms of the resolution in this respect.

(7) Pending the preparation and execution of any bonds the issuance of which is authorized under the provisions of subdivision (2), temporary bonds may be issued in such form as the board determines. [1983 c 167 § 34; 1969 ex.s. c 223 § 28B.20.398. Prior: 1947 c 284 § 4; Rem. Supp. 1947 § 4566-14. Formerly RCW 28.77.380.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

SCHOLARSHIPS, FELLOWSHIPS, SPECIAL RESEARCH PROJECTS, AND HOSPITAL

28B.20.410 Children's center for research and training in mental retardation—Established. There is hereby established at the University of Washington a children's center for research and training in mental retardation and other handicapping conditions. [1969 ex.s. c 223 § 28B.20.410. Prior: 1963 c 193 § 1. Formerly RCW 28.77.430.]

28B.20.412 Children's center for research and training in mental retardation—Administration. The center shall be administered by the board of regents of the University of Washington. [1982 c 163 § 4; 1973 c 62 § 8; 1969 ex.s. c 223 § 28B.20.412. Prior: 1963 c 193 § 2. Formerly RCW 28.77.432.]

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

Savings—Severability—1973 c 62: See notes following RCW 28B.10.510.

28B.20.414 Children's center for research and training in mental retardation—Purpose. The general purposes of the center shall be:

(1) To provide clinical and laboratory facilities for research on the causes, diagnosis, prevention, and treatment of mental retardation and other handicapping conditions in children;

(2) To develop improved professional and in-service training programs in the various disciplines concerned with handicapped children;

(3) To provide diagnostic and consultative services to various state programs and to regional and local centers, to an extent compatible with the primary research and teaching objectives of the center. [1969 ex.s. c 223 § 28B.20.414. Prior: 1963 c 193 § 3. Formerly RCW 28.77.434.]

28B.20.420 Graduate scholarships for engineering research—Established. In order to further the development of advance studies in engineering there shall be established in the engineering laboratories of the University of Washington, ten graduate scholarships and/or fellowships to the amount of one thousand dollars and tuition each, per

academic year. These scholarships shall be in the field of engineering which can best be used to aid the industrial development of the state of Washington and its resources. This graduate work shall be done in the laboratories of the university and shall be directed along the lines of professional research and testing. [1969 ex.s. c 223 § 28B.20.420. Prior: 1945 c 241 § 1. Formerly RCW 28.77.220.]

28B.20.422 Graduate scholarships for engineering research—Studies published—Direction of program—Qualifications for candidates. The studies and results of such scholarships shall be published as bulletins or engineering reports of the college of engineering of the university and a reasonable number of copies thereof shall be available to the public without cost. The provisions of RCW 28B.20.420 and this section shall include the cost of individual scholarships, the cost of necessary supplies and materials to be utilized, and the cost of printing and distribution of the bulletins or engineering reports. The direction of this research program shall rest in the proper department or departments and schools of the engineering college of the university and the candidates must meet the qualifications of the graduate school of the university for graduate students. [1969 ex.s. c 223 § 28B.20.422. Prior: 1945 c 241 § 2. Formerly RCW 28.77.225; 28.77.220, part.]

28B.20.426 Fellowship program in forensic pathology—Funding—Recipient's services to county coroners. (1) A fellowship program in forensic pathology is created in the school of medicine at the University of Washington. The program shall provide training for one person per year. The program shall be funded from funds in the death investigation account of the general fund under RCW 43.79.445.

(2) The fellowship recipient, during the period of his or her fellowship, shall be available, as soon as his or her level of expertise warrants it, to the county coroners of the state without charge to perform autopsies, for consultations, and to provide testimony in court.

(3) The forensic pathology fellowship shall be administered according to the provisions in RCW 43.103.030, as amended. [1991 c 176 § 3; 1986 c 31 § 1.]

Effective date—1986 c 31: "This act shall take effect July 1, 1986." [1986 c 31 § 3.]

28B.20.440 University hospital. The board of regents of the University of Washington is hereby authorized to operate a hospital upon university grounds to be used in conjunction with the university's medical and dental schools, including equipping and additional construction to the same. [1969 ex.s. c 223 § 28B.20.440. Cf. (i) 1947 c 286 § 2. No RRS. (ii) 1945 c 15 § 4. No RRS.]

28B.20.450 Occupational and environmental research facility—Construction and maintenance authorized—Purpose. There shall be constructed and maintained at the University of Washington an occupational and environmental research facility in the school of medicine having as its objects and purposes testing, research, training, teaching, consulting and service in the fields of industrial and occupational medicine and health, the prevention of industrial and occupational disease among workers, the

promotion and protection of safer working environments and dissemination of the knowledge and information acquired from such objects and purposes. [1989 c 12 § 4; 1969 ex.s. c 223 § 28B.20.450. Prior: 1963 c 151 § 1. Formerly RCW 28.77.410.]

28B.20.452 Occupational and environmental research facility—Industry to share costs. See RCW 51.16.042.

28B.20.454 Occupational and environmental research facility—Submission of industrial and occupational health problems to facility—Availability of information. Any matter or problem relating to the industrial and occupational health of workers may be submitted to the environmental research facility by any public agency or interested party. All research data and pertinent information available or compiled at such facility related to the industrial and occupational health of workers shall be made available and supplied without cost to any public agency or interested party. [1989 c 12 § 5; 1969 ex.s. c 223 § 28B.20.454. Prior: 1963 c 151 § 3. Formerly RCW 28.77.414.]

28B.20.456 Occupational and environmental research facility—Advisory committee. There is hereby created an advisory committee to the environmental research facility consisting of eight members. Membership on the committee shall consist of the director of the department of labor and industries, the assistant secretary for the division of health services of the department of social and health services, the president of the Washington state labor council, the president of the association of Washington business, the dean of the school of public health and community medicine of the University of Washington, the dean of the school of engineering of the University of Washington, the president of the Washington state medical association, or their representatives, and the chairman of the department of environmental health of the University of Washington, who shall be ex officio chairman of the committee without vote. Such committee shall meet at least semiannually at the call of the chairman. Members shall serve without compensation. It shall consult, review and evaluate policies, budgets, activities and programs of the facility relating to industrial and occupational health to the end that the facility will serve in the broadest sense the health of the workman as it may be related to his employment. [1973 c 62 § 9; 1969 ex.s. c 223 § 28B.20.456. Prior: 1963 c 151 § 4. Formerly RCW 28.77.416.]

Savings—Severability—1973 c 62: See notes following RCW 28B.10.510.

28B.20.458 Occupational and environmental research facility—Acceptance of loans, gifts, etc.—Presentment of vouchers for payments from accident and medical aid funds. The University of Washington may accept and administer loans, grants, funds, or gifts, conditional or otherwise, in furtherance of the objects and purposes of RCW 28B.20.450 through 28B.20.458, from the federal government and from other sources public or private. For the purpose of securing payment from the accident fund and medical aid fund as funds are required, vouchers shall be

presented to the department of labor and industries. [1969 ex.s. c 223 § 28B.20.458. Prior: 1963 c 151 § 5. Formerly RCW 28.77.418.]

28B.20.462 Warren G. Magnuson institute for biomedical research and health professions training—Established. The Warren G. Magnuson institute for biomedical research and health professions training is established within the Warren G. Magnuson health sciences center at the University of Washington. The institute shall be administered by the university. The institute may be funded through a combination of federal, state, and private funds, including earnings on the endowment fund in RCW 28B.20.472. [1990 c 282 § 1.]

28B.20.464 Warren G. Magnuson institute—Purposes. The purposes of the Warren G. Magnuson institute for biomedical research and health professions training are as follows:

(1) Supporting one or more individuals engaged in biomedical research into the causes of, the treatments for, or the management of diabetes is the primary purpose of the institute;

(2) Providing financial assistance to students in graduate or postgraduate training programs in the health professions at the university is the secondary purpose of the institute;

(3) Supporting biomedical research into the causes of, the treatment for, or the management of Parkinson's disease, osteoporosis, or any other disease or medical disorder where the achievement of a significant result in the near term is especially promising; and

(4) Enhancing the training, research, and public service missions of the health sciences schools of the University of Washington. [1990 c 282 § 2.]

28B.20.466 Warren G. Magnuson institute—Endowment fund earnings. Unless designated otherwise by donors, the earnings on the endowment fund in RCW 28B.20.472 shall be distributed as follows:

(1) Earnings on the first seven hundred fifty thousand dollars shall be expended at the direction of the dean of the school of medicine, in support of one or more individuals engaged in biomedical research into the causes of, the treatments for, or the management of diabetes;

(2) Earnings on the next two hundred fifty thousand dollars shall be expended to provide financial assistance to students in graduate or postgraduate training programs in the health professions at the university, including: Medicine, nursing, public health and community medicine, dentistry, pharmacy, and social work. At least one such student at all times shall be in a career pathway preparing for or engaged in research related to diabetes, its antecedents, or complications; and

(3) Earnings on additional funds within the endowment may be used for any purpose of the institute as outlined in RCW 28B.20.464. [1990 c 282 § 3.]

28B.20.468 Warren G. Magnuson institute—Trust fund. The Warren G. Magnuson institute trust fund is hereby established. The trust fund shall be administered by the state treasurer. Funds appropriated by the legislature for

the trust fund shall be deposited into the trust fund. At the request of the board of regents of the University of Washington, and when conditions set forth in RCW 28B.20.470 are met, the treasurer shall release state matching moneys in the fund to the University of Washington's local endowment fund. No appropriation is required for expenditures from the trust fund. [1991 sp.s. c 13 § 106; 1990 c 282 § 4.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

28B.20.470 Warren G. Magnuson institute—State matching funds. The University of Washington may apply to the treasurer for five hundred thousand dollars from the Warren G. Magnuson institute trust fund when the university can match the state funds with an amount of cash donations equal to twice the state funds provided. Private donations mean moneys from nonstate sources that include, but are not limited to federal moneys and assessments by commodity commissions authorized to conduct research activities including but not limited to research studies authorized under RCW 15.66.030 and 15.65.040. [1990 c 282 § 5.]

28B.20.472 Warren G. Magnuson institute—Local endowment fund. The state matching funds and the private donations shall be deposited in the university's local endowment fund. The university is responsible for investing and maintaining all moneys within the fund. The principal of the invested endowment fund shall not be invaded. The university may augment the endowment fund with additional private donations. The earnings of the fund shall be used solely to support the purposes of the Warren G. Magnuson institute for biomedical research and health professions training as set forth in RCW 28B.20.464. [1990 c 282 § 6.]

28B.20.500 Medical students from rural areas—Admission preference. The school of medicine at the University of Washington shall develop and implement a policy to grant admission preference to prospective medical students from rural areas of the state who agree to serve for at least five years as primary care physicians in rural areas of Washington after completion of their medical education and have applied for and meet the qualifications of the program under chapter 28B.115 RCW. Should the school of medicine be unable to fill any or all of the admission openings due to a lack of applicants from rural areas who meet minimum qualifications for study at the medical school, it may admit students not eligible for preferential admission under this section. [1991 c 332 § 26; 1990 c 271 § 9.]

Application to scope of practice—Captions not law—1991 c 332: See notes following RCW 18.130.010.

FINANCING BUILDINGS AND FACILITIES—1957 ACT

28B.20.700 Construction, remodeling, improvement, financing, etc., authorized. The board of regents of the University of Washington is empowered, in accordance with the provisions of this chapter, to provide for the construction, completion, reconstruction, remodeling, rehabilitation and improvement of buildings and facilities authorized by the legislature for the use of the university and to finance the

payment thereof by bonds payable out of a special fund from revenues hereafter derived from the payment of building fees, gifts, bequests or grants, and such additional funds as the legislature may provide. [1985 c 390 § 36; 1969 ex.s. c 223 § 28B.20.700. Prior: 1959 c 193 § 1; 1957 c 254 § 1. Formerly RCW 28.77.500.]

28B.20.705 Definitions. The following terms, whenever used or referred to in this chapter, shall have the following meaning, excepting in those instances where the context clearly indicates otherwise:

(1) The word "board" means the board of regents of the University of Washington.

(2) The words "building fees" mean the building fees charged students registering at the university.

(3) The words "bond retirement fund" mean the special fund created by chapter 254, Laws of 1957, to be known as the University of Washington bond retirement fund.

(4) The word "bonds" means the bonds payable out of the bond retirement fund.

(5) The word "projects" means the construction, completion, reconstruction, remodeling, rehabilitation, or improvement of any building or other facility of the university authorized by the legislature at any time and to be financed by the issuance and sale of bonds. [1985 c 390 § 37; 1969 ex.s. c 223 § 28B.20.705. Prior: 1963 c 224 § 2; 1963 c 182 § 1; 1959 c 193 § 2; 1957 c 254 § 2. Formerly RCW 28.77.510.]

28B.20.710 Contracts, issuance of evidences of indebtedness, acceptance of grants. In addition to the powers conferred under existing law, the board is authorized and shall have the power:

(1) To contract for the construction, completion, reconstruction, remodeling, rehabilitation and improvement of such buildings or other facilities of the university as are and which may hereafter be authorized by the legislature.

(2) To finance the same by the issuance of bonds secured by the pledge of any or all of the revenues and receipts of the bond retirement fund.

(3) Without limitation of the foregoing, to accept grants from the United States government, or any federal or state agency or instrumentality, or any public or private corporation, association, or person to aid in defraying the costs of any such projects. [1969 ex.s. c 223 § 28B.20.710. Prior: 1963 c 182 § 2; 1959 c 193 § 3; 1957 c 254 § 3. Formerly RCW 28.77.520.]

28B.20.715 Bonds—Issuance, sale, form, term, interest, etc.—Covenants—Deposit of proceeds. For the purpose of financing the cost of any projects, the board is hereby authorized to adopt the resolution or resolutions and prepare all other documents necessary for the issuance, sale and delivery of the bonds or any part thereof at such time or times as it shall deem necessary and advisable. Said bonds:

(1) Shall not constitute

(a) An obligation, either general or special, of the state; or

(b) A general obligation of the University of Washington or of the board;

(2) Shall be

(a) Either registered or in coupon form; and

(b) Issued in denominations of not less than one hundred dollars; and

(c) Fully negotiable instruments under the laws of this state; and

(d) Signed on behalf of the university by the president of the board, attested by the secretary of the board, have the seal of the university impressed thereon or a facsimile of such seal printed or lithographed in the bottom border thereof, and the coupons attached thereto shall be signed with the facsimile signatures of such president and secretary;

(3) Shall state

(a) The date of issue; and

(b) The series of the issue and be consecutively numbered within the series; and

(c) That the bond is payable both principal and interest solely out of the bond retirement fund;

(4) Each series of bonds shall bear interest, payable either annually or semiannually, as the board may determine;

(5) Shall be payable both principal and interest out of the bond retirement fund;

(6) Shall be payable at such times over a period of not to exceed forty years from date of issuance, at such place or places, and with such reserved rights of prior redemption, as the board may prescribe;

(7) Shall be sold in such manner and at such price as the board may prescribe;

(8) Shall be issued under and subject to such terms, conditions and covenants providing for the payment of the principal thereof and interest thereon and such other terms, conditions, covenants and protective provisions safeguarding such payment, not inconsistent with this chapter, and as found to be necessary by the board for the most advantageous sale thereof, which may include but not be limited to:

(a) A covenant that the building fees shall be established, maintained and collected in such amounts that will provide money sufficient to pay the principal of and interest on all bonds payable out of the bond retirement fund, to set aside and maintain the reserves required to secure the payment of such principal and interest, and to maintain any coverage which may be required over such principal and interest;

(b) A covenant that a reserve account shall be created in the bond retirement fund to secure the payment of the principal of and interest on all bonds issued and a provision made that certain amounts be set aside and maintained therein;

(c) A covenant that sufficient moneys may be transferred from the University of Washington building account to the bond retirement fund when ordered by the board of regents in the event there is ever an insufficient amount of money in the bond retirement fund to pay any installment of interest or principal and interest coming due on the bonds or any of them;

(d) A covenant fixing conditions under which bonds on a parity with any bonds outstanding may be issued.

The proceeds of the sale of all bonds, exclusive of accrued interest which shall be deposited in the bond retirement fund, shall be deposited in the state treasury to the credit of the University of Washington building account and shall be used solely for paying the costs of the projects. [1985 c 390 § 38; 1970 ex.s. c 56 § 26; 1969 ex.s. c 232 §

100; 1969 ex.s. c 223 § 28B.20.715. Prior: 1959 c 193 § 4; 1957 c 254 § 4. Formerly RCW 28.77.530.]

Purpose—1970 ex.s. c 56: See note following RCW 39.52.020.

Validation—**Saving**—**Severability**—1969 ex.s. c 232: See notes following RCW 39.52.020.

28B.20.720 University of Washington bond retirement fund—Composition—Pledge of building fees. For the purpose of paying and securing the payment of the principal of and interest on the bonds as the same shall become due, there shall be paid into the state treasury and credited to a special trust fund to be known as the University of Washington bond retirement fund, the following:

(1) One-half of such building fees as the board may from time to time determine, or such larger portion as may be necessary to prevent default in the payments required to be made out of the bond retirement fund, and in no event shall such one-half be less than twelve dollars and fifty cents per each resident student per quarter and less than thirty-seven dollars and fifty cents per each nonresident student per quarter;

(2) Any gifts, bequests, or grants which may be made, or may become available, for the purpose of furthering the construction of any authorized projects, or for the repayment of the costs thereof;

(3) Such additional funds as the legislature may provide.

Said bond retirement fund shall be kept segregated from all moneys in the state treasury and shall, while any of such bonds or any interest thereon remains unpaid, be available solely for the payment thereof except as provided in RCW 28B.20.725(5). As a part of the contract of sale of such bonds, the board undertakes to charge and collect building fees and to deposit the portion of such fees in the bond retirement fund in amounts which will be sufficient to pay the principal of, and interest on all such bonds outstanding. [1985 c 390 § 39; 1969 ex.s. c 223 § 28B.20.720. Prior: 1959 c 193 § 5; 1957 c 254 § 5. Formerly RCW 28.77.540.]

1977 Bond act for the refunding of outstanding limited obligation revenue bonds of institutions of higher education, as affecting: RCW 28B.14C.080 through 28B.14C.130.

28B.20.721 Revenues derived from certain university lands deposited in University of Washington bond retirement fund. All moneys received from the lease or rental of lands set apart by the enabling act for university purposes; all interest or income arising from the proceeds of the sale of such lands or of the timber, fallen timber, stone, gravel, or other valuable material thereon; and all moneys received as interest on deferred payments on contracts for the sale of such lands shall be deposited in the "University of Washington bond retirement fund" to be expended for the purposes set forth in RCW 28B.20.720. [1969 ex.s. c 223 § 28B.20.721. Prior: 1963 c 216 § 1. Formerly RCW 28.77.541.]

28B.20.725 Additional powers of board—Issuance of bonds, investments, transfer of funds, etc. The board is hereby empowered:

(1) To reserve the right to issue bonds later on a parity with any bonds being issued;

(2) To authorize the investing of moneys in the bond retirement fund and any reserve account therein;

(3) To authorize the transfer of money from the University of Washington building account to the bond retirement fund when necessary to prevent a default in the payments required to be made out of such fund;

(4) To create a reserve account or accounts in the bond retirement fund to secure the payment of the principal of and interest on any bonds;

(5) To authorize the transfer to the University of Washington building account of any money on deposit in the bond retirement fund in excess of debt service for a period of three years from the date of such transfer on all outstanding bonds payable out of such fund. [1969 ex.s. c 223 § 28B.20.725. Prior: 1959 c 193 § 6. Formerly RCW 28.77.545.]

1977 Bond act for the refunding of outstanding limited obligation revenue bonds of institutions of higher education, as affecting: RCW 28B.14C.080 through 28B.14C.130.

28B.20.730 Refunding bonds. The board is hereby empowered to issue refunding bonds to provide funds to refund any or all outstanding bonds payable from the bond retirement fund and to pay any redemption premium payable on such outstanding bonds being refunded. Such refunding bonds may be issued in the manner and on terms and conditions and with the covenants permitted by this chapter for the issuance of bonds. The refunding bonds shall be payable out of the bond retirement fund and shall not constitute an obligation either general or special, of the state or a general obligation of the University of Washington or the board. The board may exchange the refunding bonds at par for the bonds which are being refunded or may sell them in such manner, at such price and at such rate or rates of interest as it deems for the best interest of the university. [1970 ex.s. c 56 § 27; 1969 ex.s. c 232 § 101; 1969 ex.s. c 223 § 28B.20.730. Prior: 1959 c 193 § 8. Formerly RCW 28.77.547.]

Purpose—1970 ex.s. c 56: See note following RCW 39.52.020.

Validation—**Saving**—**Severability**—1969 ex.s. c 232: See notes following RCW 39.52.020.

28B.20.735 Bonds not general obligations—Legislature may provide additional means of payment. The bonds authorized to be issued pursuant to the provisions of RCW 28B.20.700 through 28B.20.740 shall not be general obligations of the state of Washington, but shall be limited obligation bonds payable only from the special fund created for their payment derived from the building fees as herein provided. The legislature may provide additional means for raising money for the payment of interest and principal of said bonds. RCW 28B.20.700 through 28B.20.740 shall not be deemed to provide an exclusive method for such payment. The power given to the legislature by this section to provide additional means for raising money is permissive, and shall not in any way be construed as a pledge of the general credit of the state of Washington. [1985 c 390 § 40; 1969 ex.s. c 223 § 28B.20.735. Prior: 1957 c 254 § 7. Formerly RCW 28.77.550.]

28B.20.740 RCW 28B.20.700 through 28B.20.740 as concurrent with other laws. RCW 28B.20.700 through 28B.20.740 is to be construed as concurrent with other legislation with reference to providing funds for the construction of buildings at the University of Washington, and is not to be construed as limiting any other provision of law with reference thereto. [1969 ex.s. c 223 § 28B.20.740. Prior: 1957 c 254 § 10. Formerly RCW 28.77.580.]

MISCELLANEOUS

28B.20.745 Validation—1959 c 193. Any covenants of the bonds issued by the University of Washington under the authority of chapter 254, Laws of 1957 not expressly authorized by said chapter but authorized in chapter 193, Laws of 1959 are hereby declared to be legal and binding in all respects. [1969 ex.s. c 223 § 28B.20.745. Prior: 1959 c 193 § 11. Formerly RCW 28.77.590.]

28B.20.750 Hospital project bonds—State general obligation bonds in lieu of revenue bonds. The legislature has previously approved by its appropriation of funds from time to time, a capital improvement project for the University of Washington hospital, which project was to be partly funded by the issuance, by the university board of regents, of revenue bonds payable from certain university hospital fees. In order that such project may be funded on terms most advantageous to the state, it is hereby determined to be in the public interest that state general obligation bonds be issued to provide part of the funds for such project in lieu of revenue bonds. [1975 1st ex.s. c 88 § 1.]

Severability—1975 1st ex.s. c 88: "If any provision of this 1975 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances, shall in no way be affected." [1975 1st ex.s. c 88 § 12.]

28B.20.751 Hospital project bonds—Amount authorized. For the purpose of providing financing for needed acquisition, construction, remodeling, furnishing or equipping of buildings and facilities of the University of Washington hospital, the state finance committee is hereby authorized to issue from time to time general obligation bonds of the state of Washington in the aggregate principal amount of eight million dollars, or so much thereof as shall be required to finance the university hospital improvements project described in RCW 28B.20.750, to be paid and discharged within thirty years of the date of issuance, in accordance with Article VIII, section 1, of the Constitution of the state of Washington. [1975 1st ex.s. c 88 § 2.]

Severability—1975 1st ex.s. c 88: See note following RCW 28B.20.750.

28B.20.752 Hospital project bonds—Bond anticipation notes, authorized, payment. When the state finance committee has determined to issue such general obligation bonds or a portion thereof, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of such bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for the payment of principal and redemption premium, if

any, of and interest on such notes shall be applied thereto when such bonds are issued. [1975 1st ex.s. c 88 § 3.]

Severability—1975 1st ex.s. c 88: See note following RCW 28B.20.750.

28B.20.753 Hospital project bonds—Form, terms, conditions, sale, and covenants for bonds and notes. The state finance committee is authorized to prescribe the form, terms, conditions and covenants of the bonds and/or the bond anticipation notes, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each such bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and the interest thereon when due. [1975 1st ex.s. c 88 § 4.]

Severability—1975 1st ex.s. c 88: See note following RCW 28B.20.750.

28B.20.754 Hospital project bonds—Disposition of proceeds. Except for that portion of the proceeds required to pay bond anticipation notes pursuant to RCW 28B.20.752, the proceeds from the sale of the bonds and/or bond anticipation notes authorized herein, together with all grants, donations, transferred funds and other moneys which the state finance committee or the board of regents of the University of Washington may direct the state treasurer to deposit therein, shall be deposited in the building authority construction account in the state treasury. [1975 1st ex.s. c 88 § 5.]

Severability—1975 1st ex.s. c 88: See note following RCW 28B.20.750.

28B.20.755 Hospital project bonds—Administration of proceeds from bonds and notes. Subject to legislative appropriation, all proceeds of the bonds and/or bond anticipation notes authorized in RCW 28B.20.750 through 28B.20.759 shall be administered and expended by the board of regents of the University of Washington exclusively for the purposes specified in RCW 28B.20.750 through 28B.20.759 and for the payment of the expenses incurred in connection with the sale and issuance of such bonds and bond anticipation notes. [1975 1st ex.s. c 88 § 6.]

Severability—1975 1st ex.s. c 88: See note following RCW 28B.20.750.

28B.20.756 Hospital project bonds—1975 University of Washington hospital bond retirement fund, created, purpose. The 1975 University of Washington hospital bond retirement fund is hereby created in the state treasury for the purpose of the payment of principal of and interest on the bonds authorized to be issued pursuant to RCW 28B.20.750 through 28B.20.759.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and interest coming due on such bonds. On July 1st of each such year the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1975 University of Washington hospital bond retirement fund an amount equal

to the amount certified by the state finance committee. [1975 1st ex.s. c 88 § 7.]

Severability—1975 1st ex.s. c 88: See note following RCW 28B.20.750.

28B.20.757 Hospital project bonds—Regents to accumulate moneys for bond payments. On or before June 30th of each year, the board of regents of the university shall cause to be accumulated, in an appropriate local fund, from fees charged patients of the university hospital and other moneys legally available for such purposes, an amount at least equal to the amount required in the next succeeding twelve months for the payment of the principal of and interest coming due on the bonds issued pursuant to RCW 28B.20.750 through 28B.20.759. Notwithstanding the provisions of RCW 28B.15.220, on July 1st of each such year the board of regents of the university shall cause to be paid to the state treasurer for deposit into the general fund of the state treasury, the sum so accumulated. [1975 1st ex.s. c 88 § 8.]

Severability—1975 1st ex.s. c 88: See note following RCW 28B.20.750.

28B.20.758 Hospital project bonds—As legal investment for public funds. The bonds authorized in RCW 28B.20.750 through 28B.20.759 shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1975 1st ex.s. c 88 § 9.]

Severability—1975 1st ex.s. c 88: See note following RCW 28B.20.750.

28B.20.759 Hospital project bonds—Prerequisite to issuance. The bonds authorized in RCW 28B.20.750 through 28B.20.759 shall be issued only after the university board of regents has certified to the state finance committee that projected revenue from fees charged patients of the university hospital shall be adequate, based upon reasonable projections for that revenue, to enable the board of regents to meet the requirement of RCW 28B.20.757 during the life of the bonds proposed to be issued. [1975 1st ex.s. c 88 § 10.]

Severability—1975 1st ex.s. c 88: See note following RCW 28B.20.750.

28B.20.770 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and The Evergreen State College. See RCW 28B.10.300 through 28B.10.330.

28B.20.800 Revenues derived from certain university lands and income from university permanent fund deposited in University of Washington bond retirement fund—Covenant. All moneys hereafter received from the lease or rental of lands set apart for the University of Washington by chapter 91, Laws of 1903 and section 9, chapter 122, Laws of 1893, and all interest or income arising from the proceeds of the sale of such land, less the allocation to the state treasurer's service account [fund] pursuant to RCW 43.08.190 and the state investment board expense account pursuant to RCW 43.33A.160, and all proceeds from

the sale of timber, fallen timber, stone, gravel, or other valuable material and all other receipts therefrom shall be deposited to the credit of the "University of Washington bond retirement fund" to be expended for the purposes set forth in RCW 28B.20.720. All proceeds of sale of such lands, exclusive of investment income, shall be deposited to the credit of the state university permanent fund, shall be retained therein and shall not be transferred to any other fund or account. All interest earned or income received from the investment of the money in the state university permanent fund shall be deposited to the credit of the University of Washington bond retirement fund less the allocations to the state treasurer's service fund pursuant to RCW 43.08.190 and the state investment board expense account pursuant to RCW 43.33A.160.

As a part of the contract of sale of bonds payable out of the University of Washington bond retirement fund, the board of regents of the University of Washington may covenant that all moneys derived from the above provided sources, which are required to be paid into the bond retirement fund, shall continue to be paid into such bond retirement fund for as long as any of such bonds are outstanding. [1991 sp.s. c 13 § 97; 1969 ex.s. c 223 § 28B.20.800. Prior: 1965 ex.s. c 135 § 1. Formerly RCW 28.77.620.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

1977 Bond act for the refunding of outstanding limited obligation revenue bonds of institutions of higher education, as affecting: RCW 28B.14C.080 through 28B.14C.130.

28B.20.805 Revenues derived from certain university lands and income from university permanent fund deposited in University of Washington bond retirement fund—Ratification of previous transfers. The transfers heretofore made of all moneys from the sources described in RCW 28B.20.800 and 43.79.201 into the University of Washington bond retirement fund and permanent fund are in all respects ratified and confirmed. [1969 ex.s. c 223 § 28B.20.805. Prior: 1965 ex.s. c 135 § 3. Formerly RCW 28.77.630.]

28B.20.810 Revenues derived from certain university lands and income from university permanent fund deposited in University of Washington bond retirement fund—Transfers of certain funds and investments from university permanent fund to University of Washington bond retirement fund and University of Washington building account. The board of regents of the University of Washington is empowered to authorize from time to time the transfer from the state university permanent fund to be held in reserve in the bond retirement fund created by RCW 28B.20.720 any unobligated funds and investments derived from lands set apart for the support of the university by chapter 91, Laws of 1903 and section 9, chapter 122, Laws of 1893, to the extent required to comply with bond covenants regarding principal and interest payments and reserve requirements for bonds payable out of the bond retirement fund up to a total amount of five million dollars, and to transfer any or all of said unobligated funds and investments in excess of five million dollars to the university building account created by RCW 43.79.330(22). Any funds transferred to the bond retirement fund pursuant to this section

shall be replaced by moneys first available out of the moneys required to be deposited in such fund pursuant to RCW 28B.20.800. The board is further empowered to direct the state finance committee to convert any investments in such permanent fund acquired with funds derived from such lands into cash or obligations of or guaranteed by the United States of America prior to the transfer of such funds and investments to such reserve account or building account. [1991 sp.s. c 13 § 78; 1969 ex.s. c 223 § 28B.20.810. Prior: 1965 ex.s. c 135 § 4. Formerly RCW 28.77.640.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

28B.20.820 Revenues derived from certain university lands and income from university permanent fund deposited in University of Washington bond retirement fund—RCW 79.64.040 not affected. Nothing contained in RCW 28B.20.800 through 28B.20.820 and RCW 43.79.201 is intended to amend or modify RCW 79.64.040 (section 4, chapter 178, Laws of 1961). [1969 ex.s. c 223 § 28B.20.820. Prior: 1965 ex.s. c 135 § 5. Formerly RCW 28.77.650.]

Chapter 28B.25

JOINT CENTER FOR HIGHER EDUCATION

Sections

28B.25.010	Joint center for higher education established.
28B.25.020	Coordination of programs—Master plan for Spokane higher education park.
28B.25.030	Board—Governance.
28B.25.033	Board—Membership.
28B.25.037	Board—Vacancies.
28B.25.040	Board—Director—Staff.
28B.25.050	Authority of board.
28B.25.070	Board's authority to receive and expend federal funds.
28B.25.080	Authority of Washington State University—Transfer of authority to joint center for higher education.
28B.25.900	Effective date—1991 c 205.

28B.25.010 Joint center for higher education established. A joint center for higher education is hereby established. The center shall be located in Spokane. [1991 c 205 § 2; 1985 c 370 § 97.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

28B.25.020 Coordination of programs—Master plan for Spokane higher education park. (1) The joint center shall have authority over all fiscal activities related to the land and facilities known as the Spokane higher education park subject to the approval of the higher education coordinating board pursuant to RCW 28B.80.330 through 28B.80.350.

(2) The joint center for higher education shall coordinate all baccalaureate and graduate degree programs, and all other courses and programs offered in the Spokane area by Washington State University and by Eastern Washington University outside of its Cheney campus. The joint center for higher education shall not coordinate the intercollegiate center for nursing.

(3) The joint center for higher education shall coordinate the following higher education activities in the Spokane area

outside of the Eastern Washington University Cheney campus:

(a) Articulation between lower division and upper division programs;

(b) The participation of Washington State University and Eastern Washington University in joint programs with Gonzaga University and Whitworth College and in joint programs with each other;

(c) All contractual negotiations between public and independent colleges and universities; and

(d) Programs offered through the intercollegiate research and technology institute created by RCW 28B.10.060.

(4) The participating institutions in the joint center for higher education shall maintain jurisdiction over the content of the course offerings and the entitlement to degrees. However, before any degree is authorized under this section it shall be subject to review and approval of the higher education coordinating board.

(5) The joint center shall develop a master plan for the Spokane higher education park. The plan shall be developed in cooperation with the participating institutions and submitted to the higher education coordinating board, legislature, and office of financial management.

(6) The joint center shall adopt rules as necessary to implement this chapter.

(7) Title to or all interest in real estate and other assets, including but not limited to assignable contracts, cash, equipment, buildings, facilities, and appurtenances thereto held as of July 1, 1991, shall vest in the joint center for higher education. [1991 c 205 § 3; 1989 1st ex.s. c 7 § 11; 1985 c 370 § 98.]

Legislative findings—1989 1st ex.s. c 7: See RCW 28B.45.010.

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

28B.25.030 Board—Governance. (1) The joint center for higher education shall be governed by a board consisting of the following twelve voting members:

(a) One member of the Eastern Washington University board of trustees;

(b) One member of the Washington State University board of regents;

(c) One member of the board of trustees of the Spokane community college district;

(d) Six citizens residing in Spokane county. Of the six citizen members, no more than two may be regents or trustees of Eastern Washington University, Washington State University, or the Spokane community college district; and

(e) The presidents of Washington State University and Eastern Washington University, and the chief executive officer of the Spokane community college district shall serve as ex officio members of the board.

(2) The executive director of the higher education coordinating board, the president of Gonzaga University, and the president of Whitworth College shall serve as nonvoting ex officio members of the board.

(3) Each of the twelve voting members shall have one vote. The voting members shall select a chairperson from among the nine appointed members. A majority of the twelve voting members shall constitute a quorum for conducting business. [1991 c 205 § 4; 1985 c 370 § 99.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

28B.25.033 Board—Membership. Nine members of the board shall be appointed by the governor and approved by the senate. The appointed members of the board shall serve for terms of four years, the terms expiring on September 30th of the fourth year except that, in the case of initial members, three shall be appointed to two-year terms, three shall be appointed to three-year terms, and three shall be appointed to four-year terms. The term of any board member who is a trustee or regent shall automatically expire when the member's term as trustee or regent expires. [1991 c 205 § 5.]

28B.25.037 Board—Vacancies. A vacancy among appointed board members shall be filled by the governor subject to confirmation by the senate then in session, or, if not in session, at the next session. Board members appointed under this section shall have full authority to act as a board member prior to the time the senate acts on the member's confirmation. Appointments to fill vacancies shall be only for such terms as remain unexpired. [1991 c 205 § 6.]

28B.25.040 Board—Director—Staff. The board of the joint center for higher education shall hire a director who may hire other staff under chapter 28B.16 RCW as necessary to carry out the center's duties. The director shall exercise such additional powers, other than rule making, as may be delegated by the board by resolution. [1991 c 205 § 7; 1985 c 370 § 100.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

28B.25.050 Authority of board. The board shall have authority to contract for services as deemed appropriate to carry out its functions. Such services shall include, but not be limited to, facilities and project management, grants and contract development and monitoring, personnel services, and accounting. [1991 c 205 § 8; 1985 c 370 § 101.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

28B.25.070 Board's authority to receive and expend federal funds. The board is authorized to receive and expend federal funds and any private gifts or grants to further the purpose of the center. The funds are to be expended in accordance with federal and state law and any conditions contingent in the grant of those funds. [1991 c 205 § 9.]

28B.25.080 Authority of Washington State University—Transfer of authority to joint center for higher education. Washington State University is authorized to represent state interests in acquiring additional property at the site known as the Riverpoint higher education park. This authority will transfer to the joint center for higher education upon the first meeting held by the joint center board. [1991 c 205 § 10.]

28B.25.900 Effective date—1991 c 205. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1991. [1991 c 205 § 13.]

Chapter 28B.30

WASHINGTON STATE UNIVERSITY

Sections

- 28B.30.010 Designation.
- 28B.30.015 Purpose.
- 28B.30.054 Credits—State-wide transfer policy and agreement—Establishment.
- 28B.30.055 "Major line" defined.
- 28B.30.057 Major lines common to University of Washington and Washington State University.
- 28B.30.060 Courses exclusive to Washington State University.
- 28B.30.065 Exclusive instruction in agriculture.
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- Funds*
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Washington State University fund, sources: RCW 43.79.140.
- Governing body of recognized student association at college or university, open public meetings act applicable to:* RCW 42.30.200.
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Insurance for officers, employees and students: RCW 28B.10.660.

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1977 Washington State University buildings and facilities financing act: Chapter 28B.31 RCW.

Oregon—Tuition and fees—Reciprocity with Washington: RCW 28B.15.730 through 28B.15.736.

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share crop leasing authorized: RCW 79.12.570.

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Scientific school grant: RCW 43.79.100.

Stadium approach highway authorized acquisition of property for: RCW 47.20.600.

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State building authority, projects approved: Chapter 43.75 RCW.

State College of Washington building account, name changed to Washington State University building account: RCW 43.79.335.

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Teacher preparation programs—Requirements for admission: RCW 28A.410.020.

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Traffic regulations, penalty for violations: RCW 28B.10.560.

Tuition, exemptions of children of deceased or disabled veterans or certain citizens missing in action or prisoners of war: RCW 28B.10.265.

28B.30.010 Designation. The state university located and established in Pullman, Whitman county, shall be designated Washington State University. [1969 ex.s. c 223 § 28B.30.010. Prior: 1959 c 77 § 1; 1905 c 53 § 1; 1891 c 145 § 1; RRS § 4567. Formerly RCW 28.80.010.]

28B.30.015 Purpose. The aim and the purpose of Washington State University shall be to provide a higher education in such fields as may be established therein from time to time by the board of regents or by law, including instruction in agriculture or other industrial pursuits, mechanical arts and the natural sciences. [1969 ex.s. c 223 § 28B.30.015. Prior: 1909 c 97 p 243 § 1, part; RRS § 4568, part; prior: 1897 c 118 § 190, part; 1891 c 145 § 1, part. Formerly RCW 28.80.015; 28.76.040, part and 28.76.050, part.]

28B.30.054 Credits—State-wide transfer policy and agreement—Establishment. See RCW 28B.80.280 and 28B.80.290.

28B.30.055 "Major line" defined. See RCW 28B.10.100.

28B.30.057 Major lines common to University of Washington and Washington State University. See RCW 28B.10.115.

28B.30.060 Courses exclusive to Washington State University. The courses of instruction of Washington State University shall embrace as exclusive major lines, agriculture in all its branches and subdivisions, veterinary medicine, and economic science in its application to agriculture and rural life. [1969 ex.s. c 223 § 28B.30.060. Prior: 1917 c 10 § 3; RRS § 4534. Formerly RCW 28.80.025; 28.76.070, part.]

28B.30.065 Exclusive instruction in agriculture. Work and instruction in agriculture in all its branches and subdivisions shall be offered and taught in Washington State University exclusively. [1969 ex.s. c 223 § 28B.30.065. Prior: 1917 c 10 § 6; RRS § 4537. Formerly RCW 28.80.026; 28.76.070, part.]

28B.30.067 Wine grape industry, instruction relating to—Purpose. Marked increases in state and national consumption make it evident that our developing wine grape industry has a bright future. To help assure its success the legislature concludes that Washington State University should provide a sound research, extension, and resident instruction base for both wine grape production and the processing aspects of the wine industry. [1981 1st ex.s. c 5 § 5.]

Severability—Effective date—1981 1st ex.s. c 5: See RCW 66.98.090 and 66.98.100.

Liquor revolving fund—Distribution—Reserve for administration—Disbursement to universities and department of social and health services: RCW 66.08.180.

28B.30.068 Wine grape industry, instruction relating to—Administration. Revenues received from RCW 66.08.180 for wine and wine grape research, extension programs related to wine and wine grape research, and resident instruction in both wine grape production and the processing aspects of the wine industry by Washington State University shall be administered by the College of Agriculture. When formulating or changing plans for programs and research, the College of Agriculture shall confer with representatives of the Washington Wine Society. [1981 1st ex.s. c 5 § 7.]

Severability—Effective date—1981 1st ex.s. c 5: See RCW 66.98.090 and 66.98.100.

Liquor revolving fund—Distribution—Reserve for administration—Disbursement to universities and department of social and health services: RCW 66.08.180.

28B.30.075 University fees. See chapter 28B.15 RCW.

28B.30.095 Management. The management of Washington State University and its experiment stations, the care and preservation of all property of which the institution shall become possessed, the erection and construction of all

buildings necessary for the use of said university and stations, and the disbursement and expenditure of all money provided for said university, shall be vested in the board of regents, constituted as provided in RCW 28B.30.100; said regents and their successors in office shall have the right to cause all things to be done necessary to carry out the provisions of this chapter or as otherwise provided by law. [1969 ex.s. c 223 § 28B.30.095. Prior: 1949 c 115 § 1, part; 1909 c 97 p 245 § 5, part; Rem. Supp. 1949 § 4576, part; prior: 1897 c 118 § 194, part; 1891 c 145 § 4, part. Formerly RCW 28.80.070, part, 28.80.080, part and 28.80.130, part.]

28B.30.100 Regents—Appointment—Terms—Vacancies—Quorum—Bond. The governance of Washington State University shall be vested in a board of regents to consist of nine members. They shall be appointed by the governor, by and with the consent of the senate and shall hold their offices for a term of six years from the first day of October and until their successors are appointed and qualified. Five members of said board shall constitute a quorum for the transaction of business. In the case of a vacancy or when an appointment is made after the date of the expiration of a term, the governor shall fill the vacancy for the remainder of the term of the regent whose office has become vacant or expired.

No more than the terms of two members will expire simultaneously on the last day of September in any one year.

Each regent shall, before entering upon the discharge of his respective duties as such, execute a good and sufficient bond to the state of Washington, with two or more sufficient sureties, residents of the state, or with a surety company licensed to do business within the state, in the penal sum of not less than five thousand dollars, conditioned for the faithful performance of his duties as such regent: PROVIDED, That the university shall pay any fees incurred for any such bonds for their board members. [1985 c 61 § 2; 1979 ex.s. c 103 § 3; 1973 c 62 § 10; 1969 ex.s. c 223 § 28B.30.100. Prior: 1949 c 115 § 1, part; 1909 c 97 p 245 § 5, part; Rem. Supp. 1949 § 4576, part; prior: 1897 c 118 § 194, part; 1891 c 145 § 4, part. Formerly RCW 28.80.070, part, 28.80.080, part and 28.80.130, part.]

Present terms not affected—Severability—1979 ex.s. c 103: See notes following RCW 28B.20.100.

Savings—Severability—1973 c 62: See notes following RCW 28B.10.510.

28B.30.115 Regents—Oaths. See RCW 28B.10.520.

28B.30.116 Regents—Expenses. See RCW 28B.10.525.

28B.30.117 Regents—Attorney general as advisor. See RCW 28B.10.510.

28B.30.120 Regents—Meetings—Vacancy not to affect rights of remaining members. Meetings of the board of regents may be called in such manner as the board may prescribe, and a full meeting of the board shall be called at least once a year. No vacancy in said board shall impair the rights of the remaining members of the board.

[1979 ex.s. c 103 § 6; 1969 ex.s. c 223 § 28B.30.120. Prior: 1909 c 97 p 248 § 12; RRS § 4592; prior: 1897 c 118 § 201; 1891 c 145 § 12. Formerly RCW 28.80.100.]

Present terms not affected—Severability—1979 ex.s. c 103: See notes following RCW 28B.20.100.

28B.30.125 Regents—Board organization—President—President's duties—Bylaws, laws. The board of regents shall meet and organize by the election of a president from their own number on or as soon as practicable after the first Wednesday in April of each year.

The board president shall be the chief executive officer of the board and shall preside at all meetings thereof, except that in his absence the board may appoint a chairman pro tempore. The board president shall sign all instruments required to be executed by said board other than those for the disbursement of funds.

The board may adopt bylaws for its own organizational purposes and enact laws for the government of the university and its properties. [1969 ex.s. c 223 § 28B.30.125. Prior: (i) 1955 c 346 § 1, part; 1909 c 97 p 246 § 6, part; RRS § 4577, part. Formerly RCW 28.80.110, part. (ii) 1909 c 97 p 247 § 7, part; RRS § 4578, part; prior: 1897 c 118 § 196, part; 1891 c 145 § 7, part. Formerly RCW 28.80.120, part. (iii) 1909 c 97 p 249 § 16, part; RRS § 4596, part; prior: 1897 c 118 § 205, part; 1891 c 145 § 19, part. Formerly RCW 28.80.160, part.]

28B.30.130 Regents—Treasurer of board—Bond—Disbursement of funds by. The board of regents shall appoint a treasurer who shall be the financial officer of the board and who shall hold office during the pleasure of the board. The treasurer shall render a true and faithful account of all moneys received and paid out by him, and shall give bond for the faithful performance of the duties of his office in such amount as the regents require: PROVIDED, That the university shall pay the fee for such bond.

The treasurer shall make disbursements of the funds in his hands on the order of the board, which order shall be countersigned by the secretary of the board, and shall state on what account the disbursement is made. [1969 ex.s. c 223 § 28B.30.130. Prior: (i) 1955 c 346 § 1, part; 1909 c 97 p 246 § 6, part; RRS § 4577, part. Formerly RCW 28.80.110, part. (ii) 1909 c 97 p 246 § 7, part; RRS § 4578, part; prior: 1897 c 118 § 196, part; 1891 c 145 § 7, part. Formerly RCW 28.80.120, part. (iii) 1909 c 97 p 249 § 16, part; RRS § 4596, part; prior: 1897 c 118 § 205, part; 1891 c 145 § 19, part. Formerly RCW 28.80.160, part.]

28B.30.135 Regents—University president as secretary of board—Duties—Bond. The president of the university shall be secretary of the board of regents but he shall not have the right to vote; as such he shall be the recording officer of said board, shall attest all instruments required to be signed by the board president, shall keep a true record of all the proceedings of the board, and shall perform all the duties pertaining to the office and do all other things required of him by the board. The secretary shall give a bond in the penal sum of not less than five thousand dollars conditioned for the faithful performance of his duties as such officer: PROVIDED, That the university

shall pay the fee for such bond. [1969 ex.s. c 223 § 28B.30.135. Prior: (i) 1955 c 346 § 1, part; 1909 c 97 p 246 § 6, part; RRS § 4577, part. Formerly RCW 28.80.110, part. (ii) 1909 c 97 p 247 § 7, part; RRS § 4578, part; prior: 1897 c 118 § 196, part; 1891 c 145 § 7, part. Formerly RCW 28.80.120, part.]

28B.30.140 Regents—Employees, board members, to have no interest in contracts. No employee or member of the university board of regents shall be interested pecuniarily, either directly or indirectly, in any contract for any building or improvement at said university, or for the furnishing of supplies for the same. [1969 ex.s. c 223 § 28B.30.140. Prior: 1909 c 97 p 249 § 17; RRS § 4597; prior: 1897 c 118 § 206; 1891 c 145 § 21. Formerly RCW 28.80.170.]

Code of ethics, interest in contract, public officers and employees: Chapters 42.22, 42.23 RCW.

28B.30.150 Regents—General powers and duties. The regents of Washington State University, in addition to other duties prescribed by law, shall:

(1) Have full control of the university and its property of various kinds, except as otherwise provided by law.

(2) Employ the president of the university, his assistants, members of the faculty, and employees of the university, who, except as otherwise provided by law, shall hold their positions during the pleasure of said board of regents.

(3) Establish entrance requirements for students seeking admission to the university which meet or exceed the standards specified under RCW 28B.80.350(2). Completion of examinations satisfactory to the university may be a prerequisite for entrance by any applicant, at the university's discretion. Evidence of completion of public high schools and other educational institutions whose courses of study meet the approval of the university may be acceptable for entrance.

(4) Establish such colleges, schools or departments necessary to carry out the purpose of the university and not otherwise proscribed by law.

(5) Subject to the approval of the higher education coordinating board pursuant to RCW 28B.80.340, offer new degree programs, offer off-campus programs, participate in consortia or centers, contract for off-campus educational programs, and purchase or lease major off-campus facilities.

(6) With the assistance of the faculty of the university, prescribe the courses of instruction in the various colleges, schools and departments of the institution and publish the necessary catalogues thereof.

(7) Collect such information as the board deems desirable as to the schemes of technical instruction adopted in other parts of the United States and foreign countries.

(8) Provide for holding agricultural institutes including farm marketing forums.

(9) Provide that instruction given in the university, as far as practicable, be conveyed by means of laboratory work and provide in connection with the university one or more physical, chemical, and biological laboratories, and suitably furnish and equip the same.

(10) Provide training in military tactics for those students electing to participate therein.

(11) Establish a department of elementary science and in connection therewith provide instruction in elementary mathematics, including elementary trigonometry, elementary mechanics, elementary and mechanical drawing and land surveying.

(12) Establish a department of agriculture and in connection therewith provide instruction in physics with special application of its principles to agriculture, chemistry with special application of its principles to agriculture, morphology and physiology of plants with special reference to common grown crops and fungus enemies, morphology and physiology of the lower forms of animal life, with special reference to insect pests, morphology and physiology of the higher forms of animal life and in particular of the horse, cow, sheep and swine, agriculture with special reference to the breeding and feeding of livestock and the best mode of cultivation of farm produce, and mining and metallurgy, appointing demonstrators in each of these subjects to superintend the equipment of a laboratory and to give practical instruction therein.

(13) Establish agricultural experiment stations in connection with the department of agriculture, including at least one in the western portion of the state, and appoint the officers and prescribe regulations for their management.

(14) Grant to students such certificates or degrees, as recommended for such students by the faculty.

(15) Confer honorary degrees upon persons other than graduates of the university in recognition of their learning or devotion to literature, art or science when recommended thereto by the faculty: PROVIDED, That no degree shall ever be conferred in consideration of the payment of money or the giving of property of whatsoever kind.

(16) Adopt plans and specifications for university buildings and facilities or improvements thereto and employ skilled architects and engineers to prepare such plans and specifications and supervise the construction of buildings or facilities which the board is authorized to erect, and fix the compensation for such services. The board shall enter into contracts with one or more contractors for such suitable buildings, facilities or improvements as the available funds will warrant, upon the most advantageous terms offered at a public competitive letting, pursuant to public notice under regulations established by the board. The board shall require of all persons with whom they contract for construction and improvements a good and sufficient bond for the faithful performance of the work and full protection against all liens.

(17) Except as otherwise provided by law, direct the disposition of all money appropriated to or belonging to the state university.

(18) Receive and expend the money appropriated under the act of congress approved May 8, 1914, entitled "An Act to provide for cooperative agricultural extension work between the agricultural colleges in the several States receiving the benefits of the Act of Congress approved July 2, 1862, and Acts supplemental thereto and the United States Department of Agriculture" and organize and conduct agricultural extension work in connection with the state university in accordance with the terms and conditions expressed in the acts of congress.

(19) Except as otherwise provided by law, to enter into such contracts as the regents deem essential to university purposes.

(20) Acquire by lease, gift, or otherwise, lands necessary to further the work of the university or for experimental or demonstrational purposes.

(21) Establish and maintain at least one agricultural experiment station in an irrigation district to conduct investigational work upon the principles and practices of irrigational agriculture including the utilization of water and its relation to soil types, crops, climatic conditions, ditch and drain construction, fertility investigations, plant disease, insect pests, marketing, farm management, utilization of fruit byproducts and general development of agriculture under irrigation conditions.

(22) Supervise and control the agricultural experiment station at Puyallup.

(23) Establish and maintain at Wenatchee an agricultural experiment substation for the purpose of conducting investigational work upon the principles and practices of orchard culture, spraying, fertilization, pollenization, new fruit varieties, fruit diseases and pests, byproducts, marketing, management and general horticultural problems.

(24) Accept such gifts, grants, conveyances, devises and bequests, whether real or personal property, in trust or otherwise, for the use or benefit of the university, its colleges, schools or departments; and sell, lease or exchange, invest or expend the same or the proceeds, rents, profits and income thereof except as limited by the terms of said gifts, grants, conveyances, bequests and devises; adopt proper rules to govern and protect the receipt and expenditure of the proceeds of all fees, and the proceeds, rents, profits and income of all gifts, grants, conveyances, bequests and devises, and make full report thereof in a biennial report to the governor and members of the legislature.

(25) Construct when the board so determines a new foundry and a mining, physical, technological building and fabrication shop at the university, or add to the present foundry and other buildings, in order that both instruction and research be expanded to include permanent molding and die casting with a section for new fabricating techniques, especially for light metals, including magnesium and aluminum; purchase equipment for the shops and laboratories in mechanical, electrical, and civil engineering; establish a pilot plant for the extraction of alumina from native clays and other possible light metal research; purchase equipment for a research laboratory for technological research generally; and purchase equipment for research in electronics, instrumentation, energy sources, plastics, food technology, mechanics of materials, hydraulics and similar fields.

(26) Make and transmit to the governor and members of the legislature upon request such reports as will be helpful in providing for the institution. [1985 c 370 § 93; 1977 c 75 § 21; 1973 1st ex.s. c 154 § 47; 1969 ex.s. c 223 § 28B.30.150. Prior: (a) 1953 c 101 § 1, amending (i) 1909 c 97 p 244 § 4; 1897 c 118 § 193; 1890 p 263 § 8; RRS § 4575. (ii) 1949 c 115 § 1, part; 1909 c 97 p 245 § 5, part; 1897 c 118 § 194; 1891 c 145 § 4; Rem. Supp. 1949 § 4576, part. (iii) 1909 c 97 p 249 § 19; 1897 c 118 § 208; 1895 c 146 § 1; RRS § 4599. (iv) 1909 c 97 p 247 § 8; 1897 c 118 § 197; 1891 c 145 § 8; RRS § 4579. (v) 1909 c 97 p 247 § 9; 1897 c 118 § 198; 1891 c 145 § 9; RRS § 4580. (vi) 1915 c 125 § 1; RRS § 4583. (vii) 1909 c 97 p 250 § 20; 1897 c 118 § 209; 1891 c 145 § 17; RRS § 4600. (viii) 1909 c 97 p 250 § 21; 1897 c 118 § 210; 1891 c 145 § 18;

RRS § 4601. (ix) 1909 c 228 § 1; RRS § 4588. (x) 1917 c 101 § 1; RRS § 4589. (xi) 1917 c 101 § 2; RRS § 4590. (xii) 1909 c 97 p 249 § 15; 1897 c 118 § 204; 1891 c 145 § 16; RRS § 4595. (xiii) 1909 c 97 p 244 § 3, part; 1897 c 118 § 192; 1891 c 145 § 3; RRS § 4574, part. (xiv) 1899 c 107 § 1; RRS § 4603. (xv) 1899 c 82 § 1; RRS § 4587. (xvi) 1937 c 25 § 1; RRS § 4579-1. (xvii) 1937 c 25 § 2; RRS § 4579-2. Formerly RCW 28.80.130. (b) 1961 c 25 § 1. Formerly RCW 28.80.135.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

28B.30.200 Morrill act funds allotted to university.

All funds granted by the United States government under the Morrill act, passed by congress and approved July 2, 1892 [1862], together with all acts amendatory thereof and supplementary thereto, for the support and in aid of colleges of agriculture and mechanic arts, as well as experiment stations and farms and extension work in agriculture and home economics in connection with colleges of agriculture and mechanic arts are hereby allotted to Washington State University. [1969 ex.s. c 223 § 28B.30.200. Prior: 1917 c 11 § 2; RRS § 4584. Formerly RCW 28.80.180.]

28B.30.210 Acceptance of federal aid—1907 c 198—

Assent. The state of Washington hereby assents to the purposes, terms, provisions and conditions of the grant of money provided in an act of congress approved March 16, 1906, said act being entitled "An Act to provide for an increased annual appropriation for agricultural experiment stations and regulating the expenditure thereof," and having for its purpose the more complete endowment and maintenance of agricultural experiment stations theretofore or thereafter established under an act of congress approved March 2, 1887. [1969 ex.s. c 223 § 28B.30.210. Prior: 1907 c 198 § 1; RRS § 4585. Formerly RCW 28.80.190.]

28B.30.215 Acceptance of certain federal aid.

Said annual sum appropriated and granted to the state of Washington in pursuance of said act of congress approved March 16, 1906, shall be paid as therein provided to the treasurer or other officer duly appointed by the board of regents of Washington State University at Pullman, Washington; and the board of regents of such university are hereby required to report thereon as the secretary of agriculture may prescribe. [1977 c 75 § 22; 1969 ex.s. c 223 § 28B.30.215. Prior: 1907 c 198 § 2; RRS § 4586. Formerly RCW 28.80.200.]

28B.30.220 Acceptance of federal aid—1925 ex.s. c

182. The assent of the legislature of the state of Washington to the provisions of the act of congress approved February 24, 1925, entitled "An Act to authorize the more complete endowment of agricultural experiment stations and for other purposes," is hereby given. [1969 ex.s. c 223 § 28B.30.220. Prior: 1925 ex.s. c 182 § 1. Formerly RCW 28.80.205; 28.80.190, part.]

28B.30.250 University designated as recipient of all federal aid to agricultural experiment stations. The agricultural experiment stations in connection with Washington State University shall be under the direction of said board of regents of said university for the purpose of conducting experiments in agriculture according to the terms of section one of an act of congress approved March 2, 1887, and entitled "An Act to establish agricultural experiment stations in connection with the colleges established in the several states, under the provisions of an act approved July 2, 1862, and of the acts supplementary thereto." The said university and experiment stations shall be entitled to receive all the benefits and donations made and given to similar institutions of learning in other states and territories of the United States by the legislation of the congress of the United States now in force, or that may be enacted, and particularly to the benefits and donations given by the provisions of an act of congress entitled "An Act donating public lands to the several states and territories which may provide colleges for the benefit of agricultural and mechanic arts," approved July 2, 1862, and all acts supplementary thereto, including the acts entitled "An Act to establish agricultural experiment stations in connection with colleges established in the several states under the provisions of an act approved July 2, 1862, and of the acts supplementary thereto," which said last entitled act was approved March 2, 1887; also, "An Act to apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts, established under the provisions of an act of congress approved July 2, 1862," which said last mentioned act was approved August 30, 1890. [1969 ex.s. c 223 § 28B.30.250. Prior: 1909 c 97 p 247 § 10; RRS § 4581; prior: 1897 c 118 § 199; 1891 c 145 § 10. Formerly RCW 28.80.210.]

28B.30.255 University designated as recipient of all federal aid to agricultural experiment stations—Assent to congressional grants to university. The assent of the legislature of the state of Washington is hereby given, in pursuance of the requirements of section nine of said act of congress, approved March 2, 1887, to the granting of money therein made to the establishment of experiment stations in accordance with section one of said last mentioned act, and assent is hereby given to carry out, within the state of Washington, every provision of said act. [1969 ex.s. c 223 § 28B.30.255. Prior: 1909 c 97 p 248 § 11; RRS § 4582; prior: 1897 c 118 § 200; 1891 c 145 § 11. Formerly RCW 28.80.220.]

28B.30.270 State treasurer receiving agent of certain federal aid—Acts enumerated. The state treasurer is designated as agent of the state of Washington to receive all federal appropriations for the land grant colleges in accordance with the following federal acts:

(1) Second Morrill act, approved August 30, 1890 (26 Stat. L. 417).

(2) Nelson amendment to the Morrill act making appropriations for the department of agriculture for the fiscal year ending June 30, 1908, approved March 4, 1907 (34 Stat. L. 1281).

(3) Title II, section 22 of the Bankhead-Jones act, approved June 29, 1935 (49 Stat. L. 436).

(4) Any subsequent federal act appropriating funds to the state of Washington or to Washington State University for a similar or related purpose. [1969 ex.s. c 223 § 28B.30.270. Prior: 1955 c 66 § 1. Formerly RCW 28.80.221.]

28B.30.275 State treasurer receiving agent of certain federal aid—Morrill Fund. Upon receipt of the federal grant pursuant to federal statutes, the treasurer shall deposit the same in a special trust fund to be designated "Morrill Fund" which is hereby created for the use of the designated land grant college in the teaching of agriculture and mechanic art. [1969 ex.s. c 223 § 28B.30.275. Prior: 1955 c 66 § 2. Formerly RCW 28.80.222.]

28B.30.280 State treasurer receiving agent of certain federal aid—Withdrawals. The board of regents of Washington State University may authorize the treasurer or comptroller of Washington State University to withdraw such federal grants for the use of the university for the purposes of such grant and in accordance with state law. [1969 ex.s. c 223 § 28B.30.280. Prior: 1955 c 66 § 3. Formerly RCW 28.80.223.]

28B.30.285 State treasurer receiving agent of certain federal aid—Trust funds not subject to appropriation. All federal grants received by the state treasurer pursuant to RCW 28B.30.270 shall be deemed trust funds under the control of the state treasurer and not subject to appropriation by the legislature. [1969 ex.s. c 223 § 28B.30.285. Prior: 1955 c 66 § 4. Formerly RCW 28.80.224.]

28B.30.300 State treasurer to report annually on university assets held in trust. It shall be the duty of the state treasurer to make a report to the board of regents of Washington State University on or as soon as practicable after the close of each fiscal year, which shall contain a complete detailed statement as to the status of any university assets held in trust by the treasurer and the annual income therefrom. [1977 c 75 § 23; 1969 ex.s. c 223 § 28B.30.300. Prior: 1899 c 9 § 2; RRS § 7850. Formerly RCW 28.80.230.]

College funds: RCW 43.79.100 through 43.79.140.

28B.30.310 Department of natural resources to report annually on university trust lands transactions. It shall be the duty of the department of natural resources to make a report to the board of regents of Washington State University on or as soon as practicable after the close of each fiscal year, which shall contain a complete detailed statement of the current status of trust land sale contracts and income for the university from trust lands managed by the department. [1988 c 128 § 6; 1977 c 75 § 24; 1969 ex.s. c 223 § 28B.30.310. Prior: 1899 c 9 § 1; RRS § 7849. Formerly RCW 28.80.240.]

28B.30.325 Lease of lands with outdoor recreation potential—Restrictions—Unlawful to use posted lands.

(1) Any lease of public lands with outdoor recreation potential authorized by the regents of Washington State University shall be open and available to the public for compatible recreational use unless the regents of Washington State University determine that the leased land should be closed in order to prevent damage to crops or other land cover, to improvements on the land, to the lessee, or to the general public or is necessary to avoid undue interference with carrying forward a university program. Any lessee may file an application with the regents of Washington State University to close the leased land to any public use. The regents shall cause written notice of the impending closure to be posted in a conspicuous place in the university's business office, and in the office of the county auditor in which the land is located thirty days prior to the public hearing. This notice shall state the parcel or parcels involved and shall indicate the time and place of the public hearing. Upon a determination by the regents that posting is not necessary, the lessee shall desist from posting. Upon a determination by the regents that posting is necessary, the lessee shall post his leased premises so as to prohibit recreational uses thereon. In the event any such lands are so posted, it shall be unlawful for any person to hunt or fish, or for any person other than the lessee or his immediate family to use such posted land for recreational purposes.

(2) The regents of Washington State University may insert the provisions of subsection (1) of this section in all leases hereafter issued. [1969 ex.s. c 46 § 4. Formerly RCW 28.80.246.]

28B.30.350 Medical, health and hospital service—Authorized. The board of regents of Washington State University is hereby granted authority to enter into such contracts, leases, or agreements as may be necessary to provide adequate medical, health, and hospital service for students of Washington State University and the people of the surrounding community and to provide adequate practice facilities for students enrolled in nursing courses. [1969 ex.s. c 223 § 28B.30.350. Prior: 1947 c 95 § 1; Rem. Supp. 1947 § 4603-20. Formerly RCW 28.80.250.]

28B.30.355 Medical, health and hospital service—Leases, contracts and agreements. The board of regents may lease lands, buildings, or other facilities from or to nonprofit corporations or associations, and may enter into such contracts and agreements with such units, agencies, corporations, or associations as will promote the intents and purposes of RCW 28B.30.350. [1969 ex.s. c 223 § 28B.30.355. Prior: 1947 c 95 § 2; Rem. Supp. 1947 § 4603-21. Formerly RCW 28.80.260.]

28B.30.499 High-technology education and training. See chapter 28B.65 RCW.

28B.30.500 Masters and doctorate level degrees in technology authorized—Review by higher education coordinating board. The board of regents of Washington State University may offer masters level and doctorate level degrees in technology subject to review and approval by the

higher education coordinating board. [1985 c 370 § 83; 1983 1st ex.s. c 72 § 12.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Effective date—Short title—1983 1st ex.s. c 72: See RCW 28B.65.905 and 28B.65.900.

28B.30.520 State-wide off-campus telecommunications system—Authorized—Purpose, education in high-technology fields—Availability of facilities. The board of regents of Washington State University is hereby authorized to establish a state-wide off-campus telecommunications system to provide for graduate and continuing education in high-technology fields to citizens of the state of Washington. The state-wide telecommunications system shall be administered by Washington State University with the advice of the high-technology coordinating board. Washington State University shall make the facilities of the state-wide telecommunications system available to other institutions of higher education when specific program needs so require. [1983 1st ex.s. c 72 § 14.]

Effective date—Short title—1983 1st ex.s. c 72: See RCW 28B.65.905 and 28B.65.900.

28B.30.530 Small business development center—Services—Use of funds. (1) The board of regents of Washington State University shall establish the Washington State University small business development center.

(2) The center shall provide management and technical assistance including but not limited to training, counseling, and research services to small businesses throughout the state. The center shall work with public and private community development and economic assistance agencies and shall work towards the goal of coordinating activities with such agencies to avoid duplication of services.

(3) The administrator of the center may contract with other public or private entities for the provision of specialized services.

(4) The small business and development center may accept and disburse federal grants or federal matching funds or other funds or donations from any source when made, granted, or donated to carry out the center's purposes. [1984 c 77 § 1.]

28B.30.533 Construction of RCW 28B.30.530—Conflict with federal requirements. If any part of RCW 28B.30.530 is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, the conflicting part of RCW 28B.30.530 is hereby declared to be 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 RCW 28B.30.530 in its application to the agencies concerned. [1984 c 77 § 2.]

28B.30.535 International marketing program for agricultural commodities and trade (IMPACT) center created—Primary functions. There is created an international marketing program for agricultural commodities and trade (IMPACT) center at Washington State University.

In carrying out each of its responsibilities under RCW 28B.30.537, the primary functions of the center shall be: Providing practical solutions to marketing-related problems; and developing and disseminating information which is directly applicable to the marketing of agricultural commodities and goods from this state in foreign countries or to introducing the production of commodities and goods in this state for marketing in foreign countries. [1985 c 39 § 1; 1984 c 57 § 1.]

Reviser's note—Sunset Act application: The international marketing program for agricultural commodities and trade is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.329. RCW 28B.30.535 through 28B.30.543 are scheduled for future repeal under RCW 43.131.330.

Effective date—1985 c 39: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1985." [1985 c 39 § 10.]

28B.30.537 IMPACT center—Duties. The IMPACT center shall:

(1) Coordinate the teaching, research, and extension expertise of the college of agriculture and home economics at Washington State University to assist in:

(a) The design and development of information and strategies to expand the long-term international markets for Washington agricultural products; and

(b) The dissemination of such information and strategies to Washington exporters, overseas users, and public and private trade organizations;

(2) Research and identify current impediments to increased exports of Washington agricultural products, and determine methods of surmounting those impediments and opportunities for exporting new agricultural products and commodities to foreign markets;

(3) Prepare curricula to present and distribute information concerning international trade in agricultural commodities and products to students, exporters, international traders, and the public;

(4) Provide high-quality research and graduate education and professional nondegree training in international trade in agricultural commodities in cooperation with other existing programs;

(5) Ensure that activities of the center adequately reflect the objectives for the state's agricultural market development programs established by the department of agriculture as the lead state agency for such programs under chapter 43.23 RCW;

(6) Link itself through cooperative agreements with the center for international trade in forest products at the University of Washington, the state department of agriculture, the state department of trade and economic development, Washington's agriculture businesses and associations, and other state agency data collection, processing, and dissemination efforts; and

(7) Subject to RCW 40.07.040, report biennially to the governor and the legislature on the IMPACT center, state agricultural commodities marketing programs, and the center's success in obtaining nonstate funding for its operation. [1987 c 505 § 14; 1987 c 195 § 3; 1985 c 39 § 2; 1984 c 57 § 2.]

Reviser's note: This section was amended by 1987 c 195 § 3 and by 1987 c 505 § 14, each without reference to the other. Both amendments are

incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Sunset Act application: See note following RCW 28B.30.535.

Effective date—1985 c 39: See note following RCW 28B.30.535.

28B.30.539 IMPACT center—Director. The IMPACT center shall be administered by a director appointed by the dean of the college of agriculture and home economics of Washington State University. [1985 c 39 § 3; 1984 c 57 § 3.]

Sunset Act application: See note following RCW 28B.30.535.

Effective date—1985 c 39: See note following RCW 28B.30.535.

28B.30.541 IMPACT center—Use of research and services—Fees. The governor, the legislature, state agencies, and the public may use the IMPACT center's trade policy research and advisory services as may be needed. The IMPACT center shall establish a schedule of fees for actual services rendered. [1985 c 39 § 4; 1984 c 57 § 6.]

Sunset Act application: See note following RCW 28B.30.535.

Effective date—1985 c 39: See note following RCW 28B.30.535.

28B.30.543 IMPACT center—Contributions and support. The IMPACT center shall aggressively solicit financial contributions and support from nonstate sources, including the agricultural industries and producer organizations and individuals, to help fund its research and education programs, and shall use previously appropriated funds of Washington State University and existing resources as much as is possible to further the center's activities. [1985 c 39 § 5; 1984 c 57 § 7.]

Sunset Act application: See note following RCW 28B.30.535.

Effective date—1985 c 39: See note following RCW 28B.30.535.

28B.30.600 Tree fruit research center facility, financing—Bonds, authorization conditional—Amount—Discharge. For the purpose of funding and providing the planning, construction, furnishing and equipping, together with all improvements thereon, of an office-laboratory facility at Washington State University Tree Fruit Research Center, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one million nine hundred fifty thousand dollars, or so much thereof as may be required, to finance the project defined in RCW 28B.30.600 through 28B.30.619 as now or hereafter amended and all costs incidental thereto, but only if the state finance committee determines that the interest on the bonds will be exempt from federal income tax. Such bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution. [1977 c 32 § 1; 1975 1st ex.s. c 109 § 1; 1974 ex.s. c 109 § 1.]

Severability—1975 1st ex.s. c 109: "If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 109 § 7.]

Severability—1974 ex.s. c 109: "If any provision of this 1974 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 109 § 14.]

28B.30.602 Tree fruit research center facility, financing—Bonds, committee to control issuance, sale and retirement of. The issuance, sale and retirement of said bonds shall be under the supervision and control of the state finance committee. The committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale, issuance and redemption. None of the bonds herein authorized shall be sold for less than the par value thereof.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds and notes, if any. Such bonds shall be payable at such places as the committee may provide. [1974 ex.s. c 109 § 2.]

Severability—1974 ex.s. c 109: See note following RCW 28B.30.600.

28B.30.604 Tree fruit research center facility, financing—Anticipation notes authorized—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.

28B.30.606 Tree fruit research center facility, financing—Administration of proceeds from sale of bonds or notes—Investment of surplus funds. The principal proceeds from the sale of the bonds or notes deposited in the office-laboratory construction account of the general fund shall be administered by Washington State University. Whenever there is a surplus of funds available in the office-laboratory construction account of the general fund to meet current expenditures payable therefrom, the state finance committee may invest such portion of said funds as the university deems appropriate in securities issued by the United States or agencies of the United States government as defined by RCW 43.84.080 (1) and (4). All income received from such investments shall be deposited to the credit of the bond retirement fund created in RCW 28B.30.610. [1975 1st ex.s. c 109 § 3; 1974 ex.s. c 109 § 4.]

Severability—1975 1st ex.s. c 109: See note following RCW 28B.30.600.

Severability—1974 ex.s. c 109: See note following RCW 28B.30.600.

28B.30.608 Tree fruit research center facility, financing—Security for bonds issued. Bonds issued under the provisions of RCW 28B.30.600 through 28B.30.619 as now or hereafter amended shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay such principal and interest as the same shall become due. [1977 c 32 § 2; 1974 ex.s. c 109 § 5.]

Severability—1974 ex.s. c 109: See note following RCW 28B.30.600.

28B.30.610 Tree fruit research center facility, financing—Office-laboratory facilities bond redemption fund created, use. The office-laboratory facilities bond redemption fund is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of the principal of and interest on the bonds and notes authorized by RCW 28B.30.600 through 28B.30.619. The state finance committee, shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet such bond retirement and interest requirements which may exceed cash available in the bond redemption fund from rental revenues, and on July 1st of each year the state treasurer shall deposit such amount in the office-laboratory facilities bond redemption fund from any general state revenues received in the state treasury and certified by the state treasurer to be general state revenues. [1975 1st ex.s. c 109 § 4; 1974 ex.s. c 109 § 6.]

Severability—1975 1st ex.s. c 109: See note following RCW 28B.30.600.

Severability—1974 ex.s. c 109: See note following RCW 28B.30.600.

28B.30.612 Tree fruit research center facility, financing—Rights of owner and holder of bonds. The owner and holder of any of the bonds authorized by RCW 28B.30.600 through 28B.30.619 may by a mandamus or other appropriate proceeding require the transfer and payment of funds as directed herein. [1974 ex.s. c 109 § 7.]

Severability—1974 ex.s. c 109: See note following RCW 28B.30.600.

28B.30.614 Tree fruit research center facility, financing—Lease agreement prerequisite to sale of bonds—Disposition of lease payments. None of the bonds authorized in RCW 28B.30.600 through 28B.30.619 as now or hereafter amended shall be sold unless a long-term lease agreement shall be entered into between Washington State University and the general services administration of the federal government providing for the occupancy of this facility by the United States Department of Agriculture and the National Weather Service for tree fruit research similar to the research performed at the Washington State University Tree Fruit Center. The lease payments by the federal government shall be in an amount at least equal to the amount required to provide for the amortization of the principal of and interest on the bonds authorized by RCW

28B.30.600 through 28B.30.619 as now or hereafter amended as certified by the state finance committee, in addition to custodial, maintenance and utility services costs. A portion of the annual lease payments received by the university equal to the amount required for payment of the principal and interest on the bonds shall be forthwith remitted by the university and deposited in the state treasury to the credit of the state general fund. [1977 c 32 § 3; 1975 1st ex.s. c 109 § 5; 1974 ex.s. c 109 § 8.]

Severability—1975 1st ex.s. c 109: See note following RCW 28B.30.600.

Severability—1974 ex.s. c 109: See note following RCW 28B.30.600.

28B.30.616 Tree fruit research center facility, financing—Bonds, legislature may provide additional means for payment. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 28B.30.600 through 28B.30.619, and RCW 28B.30.600 through 28B.30.619 shall not be deemed to provide an exclusive method for such payments. [1974 ex.s. c 109 § 9.]

Severability—1974 ex.s. c 109: See note following RCW 28B.30.600.

28B.30.618 Tree fruit research center facility, financing—Bonds as legal investment for public funds. The bonds authorized in RCW 28B.30.600 through 28B.30.619 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1974 ex.s. c 109 § 10.]

Severability—1974 ex.s. c 109: See note following RCW 28B.30.600.

28B.30.619 Tree fruit research center facility, financing—Appropriation. There is hereby appropriated to Washington State University from the office-laboratory construction account of the general fund, out of the sale of the bonds or notes authorized by RCW 28B.30.600 through 28B.30.619, the sum of one million nine hundred fifty thousand dollars, or such lesser amount as may be required, to finance the planning, construction, furnishing and equipping, together with all improvements thereon, of the facility authorized by RCW 28B.30.600 through 28B.30.619. [1975 1st ex.s. c 109 § 6; 1974 ex.s. c 109 § 11.]

Severability—1975 1st ex.s. c 109: See note following RCW 28B.30.600.

Severability—1974 ex.s. c 109: See note following RCW 28B.30.600.

28B.30.620 Tree fruit research center facility, financing—Alternatives authorized. In the event the state finance committee determines that interest on the bonds authorized in RCW 28B.30.600 through 28B.30.619 as now or hereafter amended will not be exempt from federal income tax, Washington State University may issue its revenue bonds as provided in RCW 28B.10.300 through 28B.10.325 to pay the cost of the facilities authorized by RCW 28B.30.600 as now or hereafter amended, and the lease rental received from the federal government shall be retained by the university instead of being deposited in the

state treasury as provided by RCW 28B.30.614 as now or hereafter amended.

In addition to the authority granted to the state treasurer by *RCW 43.84.100, with the consent of the state finance committee the state treasurer may make a loan from funds in the state treasury in the manner generally prescribed by *RCW 43.84.100 to the local construction fund established by Washington State University for the office-laboratory building authorized by RCW 28B.30.600 through 28B.30.619 as now or hereafter amended, should a determination be made for Washington State University to issue revenue bonds. [1977 c 32 § 4.]

***Reviser's note:** RCW 43.84.100 was repealed by 1985 c 57 § 90, effective July 1, 1985.

28B.30.630 Puget Sound water quality field agents program—Definitions. As used in RCW 28B.30.630 through 28B.30.638 the following definitions apply:

(1) "Sea grant" means the Washington state sea grant program.

(2) "Cooperative extension" means the cooperative extension service of Washington State University. [1990 c 289 § 1.]

28B.30.632 Puget Sound water quality field agents program—Local field agents. (1) The sea grant and cooperative extension shall jointly administer a program to provide field agents to work with local governments, property owners, and the general public to increase the propagation of shellfish, and to address Puget Sound water quality problems within Kitsap, Mason, and Jefferson counties that may limit shellfish propagation potential. The sea grant and cooperative extension shall each make available the services of no less than two agents within these counties for the purposes of this section.

(2) The responsibilities of the field agents shall include but not be limited to the following:

(a) Provide technical assistance to property owners, marine industry owners and operators, and others, regarding methods and practices to address nonpoint and point sources of pollution of Puget Sound;

(b) Provide technical assistance to address water quality problems limiting opportunities for enhancing the recreational harvest of shellfish;

(c) Provide technical assistance in the management and increased production of shellfish to facility operators or to those interested in establishing an operation;

(d) Assist local governments to develop and implement education and public involvement activities related to Puget Sound water quality;

(e) Assist in coordinating local water quality programs with region-wide and state-wide programs;

(f) Provide information and assistance to local watershed committees.

(3) The sea grant and cooperative extension shall mutually coordinate their field agent activities to avoid duplicative efforts and to ensure that the full range of responsibilities under RCW 28B.30.632 through 28B.30.636 are carried out. They shall consult with the Puget Sound water quality authority and ensure consistency with the authority's water quality management plan.

(4) Recognizing the special expertise of both agencies, the sea grant and cooperative extension shall cooperate to divide their activities as follows:

(a) Sea grant shall have primary responsibility to address water quality issues related to activities within Puget Sound, and to provide assistance regarding the management and improvement of shellfish production; and

(b) Cooperative extension shall have primary responsibility to address upland and freshwater activities affecting Puget Sound water quality and associated watersheds. [1990 c 289 § 2.]

28B.30.634 Puget Sound water quality field agents program—Matching requirements. Sea grant and cooperative extension shall require a match from nonstate sources of at least twenty-five percent of the cost of the services provided, and not exceeding fifty percent of the cost. The match may be either monetary compensation or in-kind services, such as the provision for office space or clerical support. Only direct costs of providing the services, excluding costs of administrative overhead, may be included in the estimate of costs. [1990 c 289 § 3.]

28B.30.636 Puget Sound water quality field agents program—Review. By November 1, 1992, sea grant and cooperative extension shall jointly submit a report to the legislature that includes the activities of the program, an evaluation of the success in improving practices affecting Puget Sound water quality, and recommendations regarding whether the program should be expanded to other areas of Puget Sound. The report shall also recommend additional methods of increasing shellfish propagation, recreational harvesting of shellfish, and addressing of water quality conditions affecting shellfish within Kitsap, Mason, and Jefferson counties. [1990 c 289 § 4.]

28B.30.638 Puget Sound water quality field agents program—Captions not law. Captions as used in RCW 28B.30.630 through 28B.30.638 constitute no part of the law. [1990 c 289 § 7.]

FINANCING BUILDINGS AND FACILITIES—1961 ACT

28B.30.700 Construction, remodeling, improvement, financing through bonds, authorized. The board of regents of Washington State University is empowered, in accordance with the provisions of RCW 28B.30.700 through 28B.30.780, to provide for the construction, completion, reconstruction, remodeling, rehabilitation and improvement of buildings and facilities authorized by the legislature for the use of the university and to finance the payment thereof by bonds payable out of a special fund from revenues hereafter derived from the payment of building fees, gifts, bequests or grants, and such additional funds as the legislature may provide. [1985 c 390 § 41; 1969 ex.s. c 223 § 28B.30.700. Prior: 1961 ex.s. c 12 § 1. Formerly RCW 28.80.500.]

Chapter not to repeal, override or limit other statutes or actions: RCW 28B.31.100.

28B.30.710 Definitions. The following terms, whenever used or referred to in RCW 28B.30.700 through 28B.30.780, shall have the following meaning, excepting in those instances where the context clearly indicates otherwise:

(1) The word "board" means the board of regents of Washington State University.

(2) The words "building fees" mean the building fees charged students registering at the university, but shall not mean special tuition or other fees charged such students or fees, charges, rentals, and other income derived from any or all revenue-producing lands, buildings, and facilities of the university, heretofore or hereafter acquired, constructed or installed, including but not limited to income from rooms, dormitories, dining rooms, hospitals, infirmaries, housing or student activity buildings, vehicular parking facilities, land or the appurtenances thereon.

(3) The words "bond retirement fund" mean the special fund created by RCW 28B.30.700 through 28B.30.780, to be known as the Washington State University bond retirement fund.

(4) The word "bonds" means the bonds payable out of the bond retirement fund.

(5) The word "projects" means the construction, completion, reconstruction, remodeling, rehabilitation, or improvement of any building or other facility of the university authorized by the legislature at any time and to be financed by the issuance and sale of bonds. [1985 c 390 § 42; 1969 ex.s. c 223 § 28B.30.710. Prior: 1961 ex.s. c 12 § 2. Formerly RCW 28.80.510.]

Revenue bonds for construction of buildings and acquisition of facilities: RCW 28B.10.300 through 28B.10.330.

28B.30.720 Contracts, issuance of evidences of indebtedness, bonds, acceptance of grants. In addition to the powers conferred under existing law, the board is authorized and shall have the power:

(1) To contract for the construction, completion, reconstruction, remodeling, rehabilitation and improvement of such buildings or other facilities of the university as are or may be authorized by the legislature.

(2) To finance the same by the issuance of bonds secured by the pledge of any or all of the revenues and receipts of the bond retirement fund.

(3) Without limitation of the foregoing, to accept grants from the United States government, or any federal or state agency or instrumentality, or any public or private corporation, association, or person to aid in defraying the costs of any such projects. [1969 ex.s. c 223 § 28B.30.720. Prior: 1963 c 182 § 3; 1961 ex.s. c 12 § 3. Formerly RCW 28.80.520.]

Chapter not to repeal, override or limit other statutes or actions: RCW 28B.31.100.

28B.30.730 Bonds—Issuance, sale, form, term, interest, etc.—Covenants—Deposit of proceeds. For the purpose of financing the cost of any projects, the board is hereby authorized to adopt the resolution or resolutions and prepare all other documents necessary for the issuance, sale and delivery of the bonds or any part thereof at such time or times as it shall deem necessary and advisable. Said bonds:

(1) Shall not constitute

(a) An obligation, either general or special, of the state; or

(b) A general obligation of Washington State University or of the board;

(2) Shall be

(a) Either registered or in coupon form; and

(b) Issued in denominations of not less than one hundred dollars; and

(c) Fully negotiable instruments under the laws of this state; and

(d) Signed on behalf of the university by the president of the board, attested by the secretary or the treasurer of the board, have the seal of the university impressed thereon or a facsimile of such seal printed or lithographed in the bottom border thereof, and the coupons attached thereto shall be signed with the facsimile signatures of such president and secretary;

(3) Shall state

(a) The date of issue; and

(b) The series of the issue and be consecutively numbered within the series; and

(c) That the bond is payable both principal and interest solely out of the bond retirement fund;

(4) Each series of bonds shall bear interest, payable either annually or semiannually, as the board may determine;

(5) Shall be payable both principal and interest out of the bond retirement fund;

(6) Shall be payable at such times over a period of not to exceed forty years from date of issuance, at such place or places, and with such reserved rights of prior redemption, as the board may prescribe;

(7) Shall be sold in such manner and at such price as the board may prescribe;

(8) Shall be issued under and subject to such terms, conditions and covenants providing for the payment of the principal thereof and interest thereon and such other terms, conditions, covenants and protective provisions safeguarding such payment, not inconsistent with RCW 28B.30.700 through 28B.30.780, and as found to be necessary by the board for the most advantageous sale thereof, which may include but not be limited to:

(a) A covenant that the building fees shall be established, maintained and collected in such amounts that will provide money sufficient to pay the principal of and interest on all bonds payable out of the bond retirement account, to set aside and maintain the reserves required to secure the payment of such principal and interest, and to maintain any coverage which may be required over such principal and interest;

(b) A covenant that a reserve account shall be created in the bond retirement fund to secure the payment of the principal of and interest on all bonds issued and a provision made that certain amounts be set aside and maintained therein;

(c) A covenant that sufficient moneys may be transferred from the Washington State University building account to the bond retirement account when ordered by the board of regents in the event there is ever an insufficient amount of money in the bond retirement account to pay any installment of interest or principal and interest coming due on the bonds or any of them;

(d) A covenant fixing conditions under which bonds on a parity with any bonds outstanding may be issued.

The proceeds of the sale of all bonds shall be deposited in the state treasury to the credit of the Washington State University building account and shall be used solely for paying the costs of the projects. The Washington State University building account shall be credited with the investment income derived pursuant to RCW 43.84.080 on the investible balances of scientific permanent fund and agricultural permanent fund, less the allocation to the state treasurer's service account [fund] pursuant to RCW 43.08.190. [1991 sp.s. c 13 § 50; 1985 c 390 § 43; 1972 ex.s. c 25 § 2; 1970 ex.s. c 56 § 28; 1969 ex.s. c 232 § 102; 1969 ex.s. c 223 § 28B.30.730. Prior: 1961 ex.s. c 12 § 4. Formerly RCW 28.80.530.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Purpose—1970 ex.s. c 56: See note following RCW 39.52.020.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.52.020.

Chapter not to repeal, override or limit other statutes or actions: RCW 28B.31.100.

28B.30.740 Washington State University bond retirement fund—Composition—Pledge of building fees.

For the purpose of paying and securing the payment of the principal of and interest on the bonds as the same shall become due, there shall be paid into the state treasury and credited to a special trust fund to be known as the Washington State University bond retirement fund, which fund is hereby created in the state treasury, the following:

(1) One-half of such building fees as the board may from time to time determine, or such larger portion as may be necessary to prevent default in the payments required to be made out of the bond retirement fund;

(2) Any grants which may be made, or may become available, for the purpose of furthering the construction of any authorized projects, or for the repayment of the costs thereof;

(3) Such additional funds as the legislature may provide.

Said bond retirement fund shall be kept segregated from all moneys in the state treasury and shall, while any of such bonds or any interest thereon remain unpaid, be available solely for the payment thereof except as provided in subdivision (5) of RCW 28B.30.750. As a part of the contract of sale of such bonds, the board shall undertake to charge and collect building fees and to deposit the portion of such fees in the bond retirement fund in amounts which will be sufficient to pay the principal of, and interest on all such bonds outstanding. [1985 c 390 § 44; 1969 ex.s. c 223 § 28B.30.740. Prior: 1961 ex.s. c 12 § 5. Formerly RCW 28.80.540.]

Chapter not to repeal, override or limit other statutes or actions: RCW 28B.31.100.

28B.30.741 Washington State University bond retirement fund—Disposition of certain revenues from scientific school lands. All moneys received from the lease or rental of lands set apart by the enabling act for a scientific school; all interest or income arising from the proceeds of the sale of such lands or of the timber, fallen timber, stone, gravel or other valuable material thereon, except for invest-

ment income derived pursuant to RCW 43.84.080 and, less the allocation to the state investment board expense account pursuant to RCW 43.33A.160; and all moneys received as interest on deferred payments on contracts for the sale of such lands shall be deposited in the "Washington State University bond retirement fund" to be expended for the purposes set forth in RCW 28B.30.740. [1991 sp.s. c 13 § 76; 1969 ex.s. c 223 § 28B.30.741. Prior: 1965 c 77 § 1. Formerly RCW 28.80.541.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Chapter not to repeal, override or limit other statutes or actions: RCW 28B.31.100.

28B.30.742 Washington State University bond retirement fund—Disposition of certain revenues from agricultural college lands. Whenever federal law shall permit all moneys received from the lease or rental of lands set apart by the enabling act for an agricultural college, all interest or income arising from the proceeds of the sale of such lands or of the timber, fallen timber, stone, gravel or other valuable material thereon, except for investment income derived pursuant to RCW 43.84.080 and, less the allocation to the state investment board expense account pursuant to RCW 43.33A.160; and all moneys received as interest on deferred payments on contracts for the sale of such lands shall be deposited in the Washington State University bond retirement fund to be expended for the purposes set forth in RCW 28B.30.740. [1991 sp.s. c 13 § 77; 1969 ex.s. c 223 § 28B.30.742. Prior: 1965 c 77 § 2. Formerly RCW 28.80.542.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Chapter not to repeal, override or limit other statutes or actions: RCW 28B.31.100.

28B.30.750 Additional powers of board—Issuance of bonds, investments, transfer of funds, etc. The board is hereby empowered:

(1) To reserve the right to issue bonds later on a parity with any bonds being issued;

(2) To authorize the investing of moneys in the bond retirement fund and any reserve account therein;

(3) To authorize the transfer of money from the Washington State University building account to the bond retirement fund when necessary to prevent a default in the payments required to be made out of such fund;

(4) To create a reserve account or accounts in the bond retirement fund to secure the payment of the principal of and interest on any bonds;

(5) To authorize the transfer to the Washington State University building account of any money on deposit in the bond retirement fund in excess of debt service for a period of three years from the date of such transfer on all outstanding bonds payable out of such fund. [1969 ex.s. c 223 § 28B.30.750. Prior: 1961 ex.s. c 12 § 6. Formerly RCW 28.80.550.]

Chapter not to repeal, override or limit other statutes or actions: RCW 28B.31.100.

28B.30.760 Refunding bonds. The board is hereby empowered to issue refunding bonds to provide funds to

refund any or all outstanding bonds payable from the bond retirement fund and to pay any redemption premium payable on such outstanding bonds being refunded. Such refunding bonds may be issued in the manner and on terms and conditions and with the covenants permitted by RCW 28B.30.700 through 28B.30.780 for the issuance of bonds. The refunding bonds shall be payable out of the bond retirement fund and shall not constitute an obligation either general or special, of the state or a general obligation of Washington State University or the board. The board may exchange the refunding bonds at par for the bonds which are being refunded or may sell them in such manner, at such price and at such rate or rates of interest as it deems for the best interest of the university. [1970 ex.s. c 56 § 29; 1969 ex.s. c 232 § 103; 1969 ex.s. c 223 § 28B.30.760. Prior: 1961 ex.s. c 12 § 7. Formerly RCW 28.80.560.]

Purpose—1970 ex.s. c 56: See note following RCW 39.52.020.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.52.020.

Chapter not to repeal, override or limit other statutes or actions: RCW 28B.31.100.

28B.30.770 Bonds not general obligations—Legislature may provide additional means of payment. The bonds authorized to be issued pursuant to the provisions of RCW 28B.30.700 through 28B.30.780 shall not be general obligations of the state of Washington, but shall be limited obligation bonds payable only from the special fund created for their payment. The legislature may provide additional means for raising money for the payment of interest and principal of said bonds. RCW 28B.30.700 through 28B.30.780 shall not be deemed to provide an exclusive method for such payment. The power given to the legislature by this section to provide additional means for raising money is permissive, and shall not in any way be construed as a pledge of the general credit of the state of Washington. [1969 ex.s. c 223 § 28B.30.770. Prior: 1961 ex.s. c 12 § 8. Formerly RCW 28.80.570.]

Chapter not to repeal, override or limit other statutes or actions: RCW 28B.31.100.

28B.30.780 Other laws not repealed or limited. RCW 28B.30.700 through 28B.30.780 is concurrent with other legislation with reference to providing funds for the construction of buildings at Washington State University, and is not to be construed as repealing or limiting any existing provision of law with reference thereto. [1969 ex.s. c 223 § 28B.30.780. Prior: 1961 ex.s. c 12 § 9. Formerly RCW 28.80.580.]

Chapter not to repeal, override or limit other statutes or actions: RCW 28B.31.100.

28B.30.800 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and The Evergreen State College. See RCW 28B.10.300 through 28B.10.330.

28B.30.810 Dairy/forage and agricultural research facility—Rainier school farm—Revolving fund—Lease of herd, lands, authorized. (1) Washington State University

shall establish and operate a dairy/forage and agricultural research facility at the Rainier school farm.

(2) Local funds generated through operation of this facility shall be managed in a revolving fund, established herewith, by the university. This fund shall consist of all moneys received in connection with the operation of the facility and any moneys appropriated to the fund by law. Disbursements from the revolving fund shall be on authorization of the president of the university or the president's designee. In order to maintain an effective expenditure and revenue control, this fund, to be known as the dairy/forage facility revolving fund, shall be subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditures and payment of obligations from the fund.

(3) In the event state funding is not sufficient to operate the dairy cattle herd, the university is authorized to lease the herd, together with the land necessary to maintain the same, for such period and upon such terms as the university board of regents shall deem proper. [1988 c 57 § 1; 1981 c 238 § 4.]

Effective date—Savings—Liabilities, rights, actions, contracts—1981 c 238: See notes following RCW 72.01.140.

28B.30.820 Dairy/forage and agricultural research facility—Transfer of property and facilities for. Washington State University shall assume cognizance of all real property, improvements thereon, livestock, equipment, supplies, and other items transferred by the secretary of social and health services pursuant to RCW 72.01.142.

The secretary of social and health services and the university may negotiate for a division of services and expenses related to road maintenance, water, and sewer services and buildings and grounds included in the transfer pursuant to RCW 72.01.142 or on other matters concerning this transfer. Any differences which cannot be agreed upon shall be resolved by the office of financial management and certify the same to the state agencies concerned. [1981 c 238 § 3.]

Effective date—Savings—Liabilities, rights, actions, contracts—1981 c 238: See notes following RCW 72.01.140.

Chapter 28B.31

1977 WASHINGTON STATE UNIVERSITY BUILDINGS AND FACILITIES FINANCING ACT

Sections

- 28B.31.010 Purpose—Bonds authorized—Amount—Payment.
- 28B.31.020 Bond anticipation notes—Authorized—Bond proceeds to apply to payment on.
- 28B.31.030 Form, terms, conditions, sale and covenants of bonds and notes—Pledge of state's credit.
- 28B.31.050 Administration of proceeds from bonds and notes.
- 28B.31.060 Washington State University bond retirement fund of 1977—Created—Purpose—Payment of interest and principal on bonds and notes.
- 28B.31.070 Transfer of moneys to state general fund from Washington State University building account.
- 28B.31.080 Bonds as legal investment for public funds.
- 28B.31.090 Prerequisite to bond issuance.
- 28B.31.100 Chapter not to repeal, override or limit other statutes or actions—Transfers under RCW 28B.31.070 as subordinate.

28B.31.010 Purpose—Bonds authorized—Amount—Payment. For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing and equipping of state buildings and facilities for Washington State University, the state finance committee is hereby authorized to issue from time to time general obligation bonds of the state of Washington in the aggregate principal amount of four million four hundred thousand dollars, or so much thereof as shall be required to finance the capital projects relating to Washington State University as determined by the legislature in its capital appropriation act from time to time, to be paid and discharged in not more than thirty years of the date of issuance. [1977 ex.s. c 344 § 1.]

Severability—1977 ex.s. c 344: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 344 § 12.]

28B.31.020 Bond anticipation notes—Authorized—Bond proceeds to apply to payment on. When the state finance committee has determined to issue such general obligation bonds or a portion thereof as authorized in RCW 28B.31.010, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of such bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for the payment of the principal of and redemption premium, if any, and interest on such notes shall be applied thereto when such bonds are issued. [1977 ex.s. c 344 § 2.]

Severability—1977 ex.s. c 344: See note following RCW 28B.31.010.

28B.31.030 Form, terms, conditions, sale and covenants of bonds and notes—Pledge of state's credit. The state finance committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds and/or the bond anticipation notes authorized by this chapter, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each such bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and interest thereon when due. [1977 ex.s. c 344 § 3.]

Severability—1977 ex.s. c 344: See note following RCW 28B.31.010.

28B.31.050 Administration of proceeds from bonds and notes. Subject to legislative appropriation, all proceeds of the bonds and/or bond anticipation notes authorized in this chapter shall be administered and expended by the board of regents of Washington State University exclusively for the purposes specified in this chapter and for the payment of the expenses incurred in connection with the sale and issuance of such bonds and bond anticipation notes. [1977 ex.s. c 344 § 5.]

Severability—1977 ex.s. c 344: See note following RCW 28B.31.010.

28B.31.060 Washington State University bond retirement fund of 1977—Created—Purpose—Payment

of interest and principal on bonds and notes. The Washington State University bond retirement fund of 1977 is hereby created in the state treasury for the purpose of payment of the principal of and interest on the bonds authorized by this chapter.

Upon completion of the projects for which appropriations have been made by the legislature, any proceeds of the bonds and/or bond anticipation notes authorized by this chapter remaining in the Washington State University construction account shall be transferred by the board of regents to the Washington State University bond retirement fund of 1977 to reduce the transfer or transfers next required by RCW 28B.31.070.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amounts required in the next succeeding twelve months for the payment of the principal of and the interest coming due on such bonds and the dates on which such payments are due. The state treasurer, not less than thirty days prior to the date on which any such interest or principal and interest payment is due, shall withdraw from any general state revenues received in the state treasury and deposit in the Washington State University bond retirement fund of 1977 an amount equal to the amount certified by the state finance committee to be due on such payment date. [1977 ex.s. c 344 § 6.]

Severability—1977 ex.s. c 344: See note following RCW 28B.31.010.

28B.31.070 Transfer of moneys to state general fund from Washington State University building account.

On or before June 30th of each year the board of regents of Washington State University shall cause to be accumulated in the Washington State University building account, from moneys transferred into said account from the Washington State University bond retirement fund pursuant to RCW 28B.30.750(5), an amount at least equal to the amount required in the next succeeding twelve months for the payment of the principal of and interest on the bonds issued pursuant to this chapter. Not less than thirty days prior to the date on which any such interest or principal and interest payment is due, the board of regents of Washington State University shall cause the amount so computed to be paid out of such building account to the state treasurer, for deposit into the general fund of the state treasury. [1977 ex.s. c 344 § 7.]

Severability—1977 ex.s. c 344: See note following RCW 28B.31.010.

28B.31.080 Bonds as legal investment for public funds. The bonds authorized by this chapter shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1977 ex.s. c 344 § 8.]

Severability—1977 ex.s. c 344: See note following RCW 28B.31.010.

28B.31.090 Prerequisite to bond issuance. The bonds authorized by this chapter shall be issued only after an officer of Washington State University, designated by the Washington State University board of regents, has certified, based upon his estimates of future tuition income and other

factors, that an adequate balance will be maintained in the Washington State University building account to enable the board of regents to meet the requirements of RCW 28B.31.070 during the life of the bonds to be issued. [1977 ex.s. c 344 § 9.]

Severability—1977 ex.s. c 344: See note following RCW 28B.31.010.

28B.31.100 Chapter not to repeal, override or limit other statutes or actions—Transfers under RCW 28B.31.070 as subordinate. No provision of this chapter shall be deemed to repeal, override, or limit any provision of RCW 28B.15.310 or 28B.30.700 through 28B.30.780, nor any provision or covenant of the proceedings of the board of regents of Washington State University heretofore or hereafter taken in the issuance of its revenue bonds secured by a pledge of its building fees and/or other revenues pursuant to such statutes. The obligation of the board of regents of Washington State University to make the transfers provided for in RCW 28B.31.070 shall be subject and subordinate to the lien and charge of such revenue bonds, and any revenue bonds hereafter issued, on such building fees and/or other revenues pledged to secure such bonds, and on the moneys in the Washington State University building account and the Washington State University bond retirement fund. [1985 c 390 § 45; 1977 ex.s. c 344 § 10.]

Severability—1977 ex.s. c 344: See note following RCW 28B.31.010.

Chapter 28B.35

REGIONAL UNIVERSITIES

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28B.35.010 Designation. The regional universities shall be located and designated as follows: At Bellingham, Western Washington University; at Cheney, Eastern Washington University; at Ellensburg, Central Washington University. [1977 ex.s. c 169 § 44. Prior: 1969 ex.s. c 223 § 28B.40.010; prior: 1967 c 47 § 6; 1961 c 62 § 2; 1957 c 147 § 2; prior: (i) 1909 c 97 p 251, part; 1897 c 118 § 212;

1893 c 107 § 1; RRS § 4604, part. (ii) 1937 c 23 § 1; RRS § 4604-1. (iii) 1937 c 23 § 2; RRS § 4604-2. (iv) 1937 c 23 § 3; RRS § 4604-3. Formerly RCW 28B.40.010, part; 28.81.010.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.35.050 Primary purposes—Eligibility requirements for designation as regional university. The primary purposes of the regional universities shall be to offer undergraduate and graduate education programs through the master's degree, including programs of a practical and applied nature, directed to the educational and professional needs of the residents of the regions they serve; to act as receiving institutions for transferring community college students; and to provide extended occupational and complementary studies programs that continue or are otherwise integrated with the educational services of the region's community colleges.

No college shall be eligible for designation as a regional university until it has been in operation for at least twenty years and has been authorized to offer master's degree programs in more than three fields. [1977 ex.s. c 169 § 2.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.35.100 Trustees—Appointment—Terms—Vacancies. The governance of each of the regional universities shall be vested in a board of trustees consisting of seven members. They shall be appointed by the governor with the consent of the senate and shall hold their offices for a term of six years from the first day of October and until their successors are appointed and qualified. In case of a vacancy, or when an appointment is made after the date of expiration of the term, the governor shall fill the vacancy for the remainder of the term of the trustee whose office has become vacant or expired.

No more than the terms of two members will expire simultaneously on the last day of September in any one year. [1985 c 137 § 1; 1979 ex.s. c 103 § 4; 1977 ex.s. c 169 § 45. Prior: 1973 c 62 § 11; 1969 ex.s. c 223 § 28B.40.100; prior: 1967 ex.s. c 5 § 2; 1957 c 147 § 3; prior: (i) 1909 c 97 p 251 § 1, part; 1897 c 118 § 212; 1893 c 107 § 1; RRS § 4604, part. (ii) 1909 c 97 p 251 § 2; 1897 c 118 § 213; 1893 c 107 § 2; RRS § 4605. Formerly RCW 28B.40.100, part; 28.81.020.]

Present terms not affected—Severability—1979 ex.s. c 103: See notes following RCW 28B.20.100.

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.35.105 Trustees—Organization and officers of board—Quorum. Each board of regional university trustees shall elect one of its members chairman, and it shall elect a secretary, who may or may not be a member of the board. Each board shall have power to adopt bylaws for its government and for the government of the school, which bylaws shall not be inconsistent with law, and to prescribe the duties of its officers, committees and employees. A majority of the board shall constitute a quorum for the transaction of all business. [1977 ex.s. c 169 § 46. Prior: 1969 ex.s. c 223 § 28B.40.105; prior: 1909 p 252 § 3; RRS § 4606; prior:

1897 c 118 § 214; 1893 c 107 § 3. Formerly RCW 28B.40.105, part; 28.81.030 and 28.81.050(1), (2).]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.35.110 Trustees—Meetings of board. Each board of regional university trustees shall hold at least two regular meetings each year, at such times as may be provided by the board. Special meetings shall be held as may be deemed necessary, whenever called by the chairman or by a majority of the board. Public notice of all meetings shall be given in accordance with chapter 42.32 RCW. [1977 ex.s. c 169 § 47. Prior: 1969 ex.s. c 223 § 28B.40.110; prior: 1917 c 128 § 1, part; 1909 c 97 p 253 § 6, part; RRS § 4609, part; prior: 1897 c 118 § 217, part; 1893 c 107 § 6, part. Formerly RCW 28B.40.110, part; 28.81.040, part.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Open public meetings act: Chapter 42.30 RCW.

28B.35.120 Trustees—General powers and duties of board. In addition to any other powers and duties prescribed by law, each board of trustees of the respective regional universities:

(1) Shall have full control of the regional university and its property of various kinds, except as otherwise provided by law.

(2) Shall employ the president of the regional university, his assistants, members of the faculty, and other employees of the institution, who, except as otherwise provided by law, shall hold their positions, until discharged therefrom by the board for good and lawful reason.

(3) With the assistance of the faculty of the regional university, shall prescribe the course of study in the various schools and departments thereof and publish such catalogues thereof as the board deems necessary: PROVIDED, That the state board of education shall determine the requisites for and give program approval of all courses leading to teacher certification by such board.

(4) Establish such divisions, schools or departments necessary to carry out the purposes of the regional university and not otherwise proscribed by law.

(5) Except as otherwise provided by law, may establish and erect such new facilities as determined by the board to be necessary for the regional university.

(6) May acquire real and other property as provided in RCW 28B.10.020, as now or hereafter amended.

(7) Except as otherwise provided by law, may purchase all supplies and purchase or lease equipment and other personal property needed for the operation or maintenance of the regional university.

(8) May establish, lease, operate, equip and maintain self-supporting facilities in the manner provided in RCW 28B.10.300 through 28B.10.330, as now or hereafter amended.

(9) Except as otherwise provided by law, to enter into such contracts as the trustees deem essential to regional university purposes.

(10) May receive such gifts, grants, conveyances, devises and bequests of real or personal property from whatsoever source, as may be made from time to time, in

trust or otherwise, whenever the terms and conditions thereof will aid in carrying out the regional university programs; sell, lease or exchange, invest or expend the same or the proceeds, rents, profits and income thereof except as limited by the terms and conditions thereof; and adopt regulations to govern the receipt and expenditure of the proceeds, rents, profits and income thereof.

(11) Subject to the approval of the higher education coordinating board pursuant to RCW 28B.80.340, offer new degree programs, offer off-campus programs, participate in consortia or centers, contract for off-campus educational programs, and purchase or lease major off-campus facilities.

(12) May promulgate such rules and regulations, and perform all other acts not forbidden by law, as the board of trustees may in its discretion deem necessary or appropriate to the administration of the regional university. [1985 c 370 § 94; 1977 ex.s. c 169 § 48. Prior: 1969 ex.s. c 223 § 28B.40.120; prior: 1909 c 97 p 252 § 4; RRS § 4607; prior: 1905 c 85 § 1; 1897 c 118 § 215; 1893 c 107 § 4. Formerly RCW 28B.40.120, part; 28.81.050.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.35.190 Trustees—Fire protection services. Subject to the provisions of RCW 35.21.779, each board of trustees of the regional universities may:

(1) Contract for such fire protection services as may be necessary for the protection and safety of the students, staff and property of the regional university;

(2) By agreement pursuant to the provisions of chapter 239, Laws of 1967 (chapter 39.34 RCW), as now or hereafter amended, join together with other agencies or political subdivisions of the state or federal government and otherwise share in the accomplishment of any of the purposes of subsection (1) of this section:

PROVIDED, HOWEVER, That neither the failure of the trustees to exercise any of its powers under this section nor anything herein shall detract from the lawful and existing powers and duties of political subdivisions of the state to provide the necessary fire protection equipment and services to persons and property within their jurisdiction. [1992 c 117 § 1; 1977 ex.s. c 169 § 49. Prior: 1970 ex.s. c 15 § 28. Formerly RCW 28B.40.190, part.]

Findings—1992 c 117: See note following RCW 35.21.775.

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.35.195 Treasurer—Appointment, term, duties, bonds. See RCW 28B.40.195.

28B.35.196 Credits—State-wide transfer policy and agreement—Establishment. See RCW 28B.80.280 and 28B.80.290.

28B.35.200 Bachelor degrees authorized. The degree of bachelor of arts or the degree of bachelor of science and/or the degree of bachelor of arts in education may be granted to any student who has completed a four-year course of study or the equivalent thereof in Central

Washington University, Eastern Washington University, or Western Washington University. [1977 ex.s. c 169 § 50. Prior: 1969 ex.s. c 223 § 28B.40.200; prior: 1967 c 231 § 1; 1967 c 47 § 7; 1947 c 109 § 1; 1933 c 13 § 1; Rem. Supp. 1947 § 4618-1. Formerly RCW 28B.40.200, part; 28.81.052; 28.81.050(16).]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.35.205 Degrees through master's degrees authorized—Limitations—Honorary bachelor's or master's degrees. In addition to all other powers and duties given to them by law, Central Washington University, Eastern Washington University, and Western Washington University are hereby authorized to grant any degree through the master's degree to any student who has completed a program of study and/or research in those areas which are determined by the faculty and board of trustees of the college to be appropriate for the granting of such degree: PROVIDED, That before any degree is authorized under this section it shall be subject to the review and approval of the higher education coordinating board.

The board of trustees, upon recommendation of the faculty, may also confer honorary bachelor's or master's degrees upon persons other than graduates of the institution, in recognition of their learning or devotion to education, literature, art, or science. No degree may be conferred in consideration of the payment of money or the donation of any kind of property. [1991 c 58 § 2; 1985 c 370 § 84; 1979 c 14 § 4. Prior: 1977 ex.s. c 169 § 51. Cf: 1975 1st ex.s. c 232 § 1.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.35.230 Certificates, diplomas—Signing—Contents. Every diploma issued by a regional university shall be signed by the chairman of the board of trustees and by the president of the regional university issuing the same, and sealed with the appropriate seal. In addition to the foregoing, teaching certificates shall be countersigned by the state superintendent of public instruction. Every certificate shall specifically state what course of study the holder has completed and for what length of time such certificate is valid in the schools of the state. [1977 ex.s. c 169 § 53. Prior: 1969 ex.s. c 223 § 28B.40.230; prior: 1917 c 128 § 4; 1909 c 97 p 254 § 9; RRS § 4615; prior: 1897 c 118 § 220; 1895 c 146 § 2; 1893 c 107 § 13. Formerly RCW 28B.40.230, part; 28.81.056; 28.81.050(15).]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.35.300 Model schools and training departments—Purpose. A model school or schools or training departments may be provided for each regional university, in which students, before graduation, may have actual practice in teaching or courses relative thereto under the supervision and observation of critic teachers. All schools or departments involved herewith shall organize and direct their work being cognizant of public school needs. [1977 ex.s. c 169 § 54. Prior: 1969 ex.s. c 223 § 28B.40.300; prior: 1917 c

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128 § 2; 1909 c 97 p 253 § 8; RRS § 4611; prior: 1897 c 118 § 219; 1893 c 107 § 12. Formerly RCW 28B.40.300, part; 28.81.058; 28.81.050(12).]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.35.305 Model schools and training departments—Trustees to estimate number of pupils required. The board of trustees of any regional university having a model school or training department as authorized by RCW 28B.35.300, shall, on or before the first Monday of September of each year, file with the board of the school district or districts in which such regional university is situated, a certified statement showing an estimate of the number of public school pupils who will be required to make up such model school and specifying the number required for each grade for which training for students is required. [1977 ex.s. c 169 § 55. Prior: 1969 ex.s. c 223 § 28B.40.305; prior: 1907 c 97 § 1; RRS § 4612. Formerly RCW 28B.40.305, part; 28.81.059; 28.81.050(13).]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.35.310 Model schools and training departments—Requisitioning of pupils—President may refuse admission. It shall thereupon be the duty of the board of the school district or districts with which such statement has been filed, to apportion for attendance to the said model school or training department, a sufficient number of pupils from the public schools under the supervision of said board as will furnish to such regional university the number of pupils required in order to maintain such facility: PROVIDED, That the president of said regional university may refuse to accept any such pupil as in his judgment would tend to reduce the efficiency of said model school or training department. [1977 ex.s. c 169 § 56. Prior: 1969 ex.s. c 223 § 28B.40.310; prior: 1907 c 97 § 2; RRS § 4613. Formerly RCW 28B.40.310, part; 28.81.060.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.35.315 Model schools and training departments—Report of attendance. Annually, on or before the date for reporting the school attendance of the school district in which said model school or training department is situated, for the purpose of taxation for the support of the common schools, the board of trustees of each such regional university having supervision over the same shall file with the board of the school district or districts, in which such model school or training department is situated, a report showing the number of common school pupils at each such model school or training department during the school year last passed, and the period of their attendance in the same form that reports of public schools are made. Any superintendent of the school district so affected shall, in reporting the attendance in said school district, segregate the attendance at said model school or training department, from the attendance in the other schools of said district: PROVIDED, That attendance shall be credited, if credit be given therefor, to the school district in which the pupil resides. [1977 ex.s. c 169 § 57. Prior: 1969 ex.s. c 223 § 28B.40.315; prior:

1917 c 128 § 3; 1907 c 97 § 3; RRS § 4614. Formerly RCW 28B.40.315, part; 28.81.061; 28.81.050(14).]

~~Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.~~

28B.35.320 High-technology education and training. See chapter 28B.65 RCW.

28B.35.350 Suspension and expulsion. Any student may be suspended or expelled from any regional university who is found to be guilty of an infraction of the regulations of the institution. [1977 ex.s. c 169 § 58. Prior: 1969 ex.s. c 223 § 28B.40.350; prior: 1961 ex.s. c 13 § 2, part; prior: (i) 1909 c 97 p 255 § 13; RRS § 4620. (ii) 1921 c 136 § 1, part; 1905 c 85 § 3, part; RRS § 4616, part. Formerly RCW 28B.40.350, part; 28.81.070.]

~~Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.~~

28B.35.361 Exemption of certain veterans from payment of fees. The boards of trustees of each regional university may exempt from the payment of tuition or services and activities fees, except for individual instruction fees, (1) all veterans who served in the armed forces of the United States who have served the United States during any period of war as defined in RCW 41.04.005 and who shall have served with evidence of conduct other than undesirable, bad conduct or dishonorable upon release from active service: PROVIDED, That such person is no longer entitled to federal vocational or educational benefits conferred by virtue of his military service: PROVIDED FURTHER, That such exemptions shall be provided only to those persons otherwise covered who were enrolled in the regional universities on or before October 1, 1977, and (2) all children of any law enforcement officer or fire fighter who lost his life or became totally disabled in the line of duty while employed by any public law enforcement agency or full time or volunteer fire department in this state: PROVIDED, That such persons may receive the exemption only if they begin their course of study at a regional university within ten years of their graduation from high school. [1990 c 154 § 3; 1985 c 390 § 46; 1977 ex.s. c 322 § 12; 1977 ex.s. c 169 § 59. Prior: 1973 1st ex.s. c 191 § 3; 1971 ex.s. c 279 § 16; 1969 ex.s. c 269 § 9. Cf. 1969 ex.s. c 269 § 5. Formerly RCW 28B.40.361, part; 28.81.084.]

~~Severability—1977 ex.s. c 322: See note following RCW 28B.15.065.~~

~~Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.~~

28B.35.370 Disposition of building fees and normal school fund revenues—Bond payments—Capital projects accounts for construction, equipment, maintenance of buildings, etc. Within thirty-five days from the date of collection thereof all building fees of each regional university and The Evergreen State College shall be paid into the state treasury and these together with such normal school fund revenues as provided in RCW 28B.35.751 as are received by the state treasury shall be credited as follows:

(1) On or before June 30th of each year the board of trustees of each regional university and The Evergreen State

College, if issuing bonds payable out of its building fees and above described normal school fund revenues, shall certify to the state treasurer the amounts required in the ensuing twelve months to pay and secure the payment of the principal of and interest on such bonds. The amounts so certified by each regional university and The Evergreen State College shall be a prior lien and charge against all building fees and above described normal school fund revenues of such institution. The state treasurer shall thereupon deposit the amounts so certified in the Eastern Washington University capital projects account, the Central Washington University capital projects account, the Western Washington University capital projects account, or The Evergreen State College capital projects account respectively, which accounts are hereby created in the state treasury. The amounts deposited in the respective capital projects accounts shall be used exclusively to pay and secure the payment of the principal of and interest on the building bonds issued by such regional universities and The Evergreen State College as authorized by law. If in any twelve month period it shall appear that the amount certified by any such board of trustees is insufficient to pay and secure the payment of the principal of and interest on the outstanding building and above described normal school fund revenue bonds of its institution, the state treasurer shall notify the board of trustees and such board shall adjust its certificate so that all requirements of moneys to pay and secure the payment of the principal of and interest on all such bonds then outstanding shall be fully met at all times.

(2) All normal school fund revenue pursuant to RCW 28B.35.751 shall be deposited in the Eastern Washington University capital projects account, the Central Washington University capital projects account, the Western Washington University capital projects account, or The Evergreen State College capital projects account respectively, which accounts are hereby created in the state treasury. The sums deposited in the respective capital projects accounts shall be appropriated and expended exclusively to pay and secure the payment of the principal of and interest on bonds payable out of the building fees and normal school revenue and for the construction, reconstruction, erection, equipping, maintenance, demolition and major alteration of buildings and other capital assets, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances in relation thereto except for any sums transferred therefrom as authorized by law. [1991 sp.s. c 13 § 49. Prior: 1985 c 390 § 47; 1985 c 57 § 15; 1977 ex.s. c 169 § 79; 1969 ex.s. c 223 § 28B.40.370; prior: 1967 c 47 §§ 11, 14; 1965 c 76 § 2; 1961 ex.s. c 14 § 5; 1961 ex.s. c 13 § 4. Formerly RCW 28B.40.370; 28.81.085; 28.81.540.]

~~Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.~~

~~Effective date—1985 c 57: See note following RCW 18.04.105.~~

~~Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.~~

28B.35.380 Extension departments. In order to assist teachers in service, candidates for certificates, and others, each regional university shall establish and maintain an extension department. The work of the department may supplement the previous training of teachers in service and

comprise subjects included in the regional university curriculum, or otherwise.

In order to prevent overlapping of territory in connection with this extension work, the state board of education shall district the state making a definite assignment of territory to each institution: PROVIDED, That such assignments of territory shall not preclude any other contractual arrangements initiated by a regional university to carry out its duties under this section. The head of the extension department of each regional university, after being assigned specific territory, shall cooperate with the several educational service district superintendents or educational executive officers of the educational service districts in making public the courses or seminars available for each year, such information being forwarded by the head of the extension department to the state superintendent of public instruction.

A report of the work accomplished by any such extension department during the preceding school year shall be made by the board of trustees upon request of the governor or any member of the legislature. [1977 ex.s. c 169 § 60. Prior: 1975 1st ex.s. c 275 § 147; 1969 ex.s. c 176 § 155; 1969 ex.s. c 223 § 28B.40.380; prior: 1965 c 139 § 23; 1917 c 128 § 5; RRS § 4617. Formerly RCW 28B.40.380, part; 28.81.100, 28.71.080, 28.81.050, part.]

~~Severability—Nomenclature—Savings—1977 ex.s. c 169:~~ See notes following RCW 28B.10.016.

28B.35.390 Duties of president. The president of each regional university shall have general supervision of the university and see that all laws and rules of the board of trustees are observed. [1977 ex.s. c 169 § 61. Prior: 1969 ex.s. c 223 § 28B.40.390; prior: 1909 c 97 p 253 § 7; RRS § 4610; prior: 1897 c 118 § 218; 1893 c 107 § 7. Formerly RCW 28B.40.390, part; 28.81.110.]

~~Severability—Nomenclature—Savings—1977 ex.s. c 169:~~ See notes following RCW 28B.10.016.

28B.35.400 Meetings of presidents. It shall be the duty of the presidents of the several regional universities to meet at least once annually to consult with each other relative to the management of the regional universities. [1977 ex.s. c 169 § 62.]

~~Severability—Nomenclature—Savings—1977 ex.s. c 169:~~ See notes following RCW 28B.10.016.

FINANCING BUILDINGS AND FACILITIES—1961 ACT

28B.35.700 Construction, remodeling, improvement, financing, etc.—Authorized. The boards of trustees of the regional universities and of The Evergreen State College are empowered in accordance with the provisions of RCW 28B.35.700 through 28B.35.790, to provide for the construction, completion, reconstruction, remodeling, rehabilitation and improvement of buildings and facilities authorized by the legislature for the use of the aforementioned universities and The Evergreen State College and to finance the payment thereof by bonds payable out of special funds from revenues hereafter derived from the payment of building fees, gifts, bequests or grants and such additional funds as the legislature may provide. [1985 c 390 § 48; 1977 ex.s. c 169 § 82;

1969 ex.s. c 223 § 28B.40.700. Prior: 1967 c 47 § 12; 1961 ex.s. c 14 § 1. Formerly RCW 28B.40.700; 28.81.500.]

~~Severability—Nomenclature—Savings—1977 ex.s. c 169:~~ See notes following RCW 28B.10.016.

28B.35.710 Definitions. The following terms, whenever used or referred to in RCW 28B.35.700 through 28B.35.790, shall have the following meaning, excepting in those instances where the context clearly indicates otherwise:

(1) The word "boards" means the boards of trustees of the regional universities and The Evergreen State College.

(2) The words "building fees" mean the building fees charged students registering at each college, but shall not mean the special tuition or other fees charged such students or fees, charges, rentals, and other income derived from any or all revenue-producing lands, buildings, and facilities of the respective colleges, heretofore or hereafter acquired, constructed or installed, including but not limited to income from rooms, dormitories, dining rooms, hospitals, infirmaries, housing or student activity buildings, vehicular parking facilities, land or the appurtenances thereon.

(3) The words "bond retirement funds" shall mean the special funds created by law and known as the Eastern Washington University bond retirement fund, Central Washington University bond retirement fund, Western Washington University bond retirement fund, and The Evergreen State College bond retirement fund, all as referred to in RCW 28B.35.370.

(4) The word "bonds" means the bonds payable out of the bond retirement funds.

(5) The word "projects" means the construction, completion, reconstruction, remodeling, rehabilitation, or improvement of any building or other facility of any of the aforementioned colleges authorized by the legislature at any time and to be financed by the issuance and sale of bonds. [1985 c 390 § 49; 1977 ex.s. c 169 § 83; 1969 ex.s. c 223 § 28B.40.710. Prior: 1967 c 47 § 13; 1961 ex.s. c 14 § 2. Formerly RCW 28B.40.710; 28.81.510.]

~~Severability—Nomenclature—Savings—1977 ex.s. c 169:~~ See notes following RCW 28B.10.016.

28B.35.720 Contracts, issuance of evidences of indebtedness, bonds, acceptance of grants. In addition to the powers conferred under existing law, each of the boards is authorized and shall have the power:

(1) To contract for the construction, completion, reconstruction, remodeling, rehabilitation and improvement of such buildings or other facilities of the university or college as are authorized by the legislature to be financed by the issuance and sale of bonds.

(2) To finance the same by the issuance of bonds secured by the pledge of any or all of the building fees.

(3) Without limitation of the foregoing, to accept grants from the United States government, or any federal or state agency or instrumentality, or private corporation, association, or person to aid in defraying the costs of any such projects. [1985 c 390 § 50; 1977 ex.s. c 169 § 84; 1969 ex.s. c 223 § 28B.40.720. Prior: 1961 ex.s. c 14 § 3. Formerly RCW 28B.40.720; 28.81.520.]

~~Severability—Nomenclature—Savings—1977 ex.s. c 169:~~ See notes following RCW 28B.10.016.

28B.35.730 Bonds—Issuance, sale, form, term, interest, etc.—Covenants—Deposit of proceeds. For the purpose of financing the cost of any projects, each of the boards is hereby authorized to adopt the resolution or resolutions and prepare all other documents necessary for the issuance, sale and delivery of the bonds or any part thereof at such time or times as it shall deem necessary and advisable. Said bonds:

(1) Shall not constitute

(a) An obligation, either general or special, of the state;

or

(b) A general obligation of the university or college or of the board;

(2) Shall be

(a) Either registered or in coupon form; and

(b) Issued in denominations of not less than one hundred dollars; and

(c) Fully negotiable instruments under the laws of this state; and

(d) Signed on behalf of the university or college by the chairman of the board, attested by the secretary of the board, have the seal of the university or college impressed thereon or a facsimile of such seal printed or lithographed in the bottom border thereof, and the coupons attached thereto shall be signed with the facsimile signatures of such chairman and the secretary;

(3) Shall state

(a) The date of issue; and

(b) The series of the issue and be consecutively numbered within the series; and

(c) That the bond is payable both principal and interest solely out of the bond retirement fund;

(4) Each series of bonds shall bear interest, payable either annually or semiannually, as the board may determine;

(5) Shall be payable both principal and interest out of the bond retirement fund;

(6) Shall be payable at such times over a period of not to exceed forty years from date of issuance, at such place or places, and with such reserved rights of prior redemption, as the board may prescribe;

(7) Shall be sold in such manner and at such price as the board may prescribe;

(8) Shall be issued under and subject to such terms, conditions and covenants providing for the payment of the principal thereof and interest thereon and such other terms, conditions, covenants and protective provisions safeguarding such payment, not inconsistent with RCW 28B.35.700 through 28B.35.790, as now or hereafter amended, and as found to be necessary by the board for the most advantageous sale thereof, which may include but not be limited to:

(a) A covenant that the building fees shall be established, maintained and collected in such amounts that will provide money sufficient to pay the principal of and interest on all bonds payable out of the bond retirement fund, to set aside and maintain the reserves required to secure the payment of such principal and interest, and to maintain any coverage which may be required over such principal and interest;

(b) A covenant that a reserve account shall be created in the bond retirement fund to secure the payment of the principal of and interest on all bonds issued and a provision

made that certain amounts be set aside and maintained therein;

(c) A covenant that sufficient moneys may be transferred from the capital projects account of the university or college issuing the bonds to the bond retirement fund of such university or college when ordered by the board of trustees in the event there is ever an insufficient amount of money in the bond retirement fund to pay any installment of interest or principal and interest coming due on the bonds or any of them;

(d) A covenant fixing conditions under which bonds on a parity with any bonds outstanding may be issued.

The proceeds of the sale of all bonds, exclusive of accrued interest which shall be deposited in the bond retirement fund, shall be deposited in the state treasury to the credit of the capital projects account of the university or college issuing the bonds and shall be used solely for paying the costs of the projects. [1985 c 390 § 51; 1977 ex.s. c 169 § 85; 1970 ex.s. c 56 § 30; 1969 ex.s. c 232 § 104; 1969 ex.s. c 223 § 28B.40.730. Prior: 1961 ex.s. c 14 § 4. Formerly RCW 28B.40.730; 28.81.530.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Purpose—1970 ex.s. c 56: See note following RCW 39.52.020.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.52.020.

Capital projects accounts of regional universities and The Evergreen State College: RCW 28B.35.370.

28B.35.740 Disposition of building fees and normal school fund revenues—Bond payments, etc. See RCW 28B.35.370.

28B.35.750 Funds payable into bond retirement funds—Pledge of building fees. For the purpose of paying and securing the payment of the principal of and interest on the bonds as the same shall become due, there shall be paid into the state treasury and credited to the respective bond retirement fund of each university or college issuing bonds, the following:

(1) Amounts derived from building fees as the board shall certify as necessary to prevent default in the payments required to be paid into such bond retirement fund;

(2) Any grants which may be made, or may become available, for the purpose of furthering the construction of any authorized projects, or for the repayment of the costs thereof;

(3) Such additional funds as the legislature may provide.

Said bond retirement fund shall be kept segregated from all moneys in the state treasury and shall, while any of such bonds or any interest thereon remains unpaid, be available solely for the payment thereof. As a part of the contract of sale of such bonds, the board shall undertake to charge and collect building fees and to deposit the portion of such fees in the bond retirement fund in amounts which will be sufficient to pay and secure the payment of the principal of, and interest on all such bonds outstanding. [1985 c 390 § 52; 1977 ex.s. c 169 § 86; 1969 ex.s. c 223 § 28B.40.750. Prior: 1961 ex.s. c 14 § 6. Formerly RCW 28B.40.750; 28.81.550.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.35.751 Disposition of certain normal school fund revenues. All moneys received from the lease or rental of lands set apart by the enabling act for state normal schools purposes; all interest or income arising from the proceeds of the sale of such lands or of the timber, fallen timber, stone, gravel, or other valuable material thereon, less the allocation to the state treasurer's service account [fund] pursuant to RCW 43.08.190 and the state investment board expense account pursuant to RCW 43.33A.160; and all moneys received as interest on deferred payments on contracts for the sale of such lands, shall from time to time be paid into the state treasury and credited to the Eastern Washington University, Central Washington University, Western Washington University and The Evergreen State College capital projects accounts as herein provided to be expended for capital projects, and bond retirement purposes as set forth in RCW 28B.35.750, as now or hereafter amended. Eastern Washington University, Central Washington University, Western Washington University, and The Evergreen State College shall be credited with one-fourth of the total amount: PROVIDED, That Eastern Washington University, Central Washington University and Western Washington University shall each be credited with one-third of the total amount for so long as there remain unpaid and outstanding any bonds which are payable in whole or in part out of the moneys, interest or income described in this section. [1991 sp.s. c 13 § 95; 1977 ex.s. c 169 § 87; 1969 ex.s. c 223 § 28B.40.751. Prior: 1967 c 47 § 15; 1965 c 76 § 1. Formerly RCW 28B.40.751; 28.81.551.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.35.760 Additional powers of board—Issuance of bonds, investments, transfer of funds, etc. The board of any such university or college is hereby empowered:

(1) To reserve the right to issue bonds later on a parity with any bonds being issued;

(2) To authorize the investing of moneys in the bond retirement fund and any reserve account therein;

(3) To authorize the transfer of money from the college's or universities' capital projects account to the college's or universities' bond retirement fund when necessary to prevent a default in the payments required to be made out of such fund;

(4) To create a reserve account or accounts in the bond retirement fund to secure the payment of the principal of and interest on any bonds. [1977 ex.s. c 169 § 88; 1969 ex.s. c 223 § 28B.40.760. Prior: 1961 ex.s. c 14 § 7. Formerly RCW 28B.40.760; 28.81.560.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.35.770 Refunding bonds. Each board of trustees is hereby empowered to issue refunding bonds to provide funds to refund any or all outstanding bonds payable from the bond retirement fund and to pay any redemption premium payable on such outstanding bonds being refunded. Such refunding bonds may be issued in the manner and on terms and conditions and with the covenants permitted by RCW 28B.35.700 through 28B.35.790 as now or hereafter amend-

ed for the issuance of bonds. The refunding bonds shall be payable out of the bond retirement fund and shall not constitute an obligation either general or special, of the state or a general obligation of the college or university of Washington issuing the bonds or the board thereof. The board may exchange the refunding bonds at par for the bonds which are being refunded or may sell them in such manner, at such price and at such rate or rates of interest as it deems for the best interest of the college or university. [1977 ex.s. c 169 § 89; 1970 ex.s. c 56 § 31; 1969 ex.s. c 232 § 105; 1969 ex.s. c 223 § 28B.40.770. Prior: 1961 ex.s. c 14 § 8. Formerly RCW 28B.40.770; 28.81.570.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Purpose—1970 ex.s. c 56: See note following RCW 39.52.020.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.52.020.

28B.35.780 Bonds not general obligation—Legislature may provide additional means of payment.

The bonds authorized to be issued pursuant to the provisions of RCW 28B.35.700 through 28B.35.790 as now or hereafter amended shall not be general obligations of the state of Washington, but shall be limited obligation bonds payable only from the special funds created for their payment. The legislature may provide additional means for raising money for the payment of interest and principal of said bonds. RCW 28B.35.700 through 28B.35.790 as now or hereafter amended shall not be deemed to provide an exclusive method for such payment. The power given to the legislature by this section to provide for additional means for raising money is permissive, and shall not in any way be construed as a pledge of the general credit of the state of Washington. [1977 ex.s. c 169 § 90; 1969 ex.s. c 223 § 28B.40.780. Prior: 1961 ex.s. c 14 § 9. Formerly RCW 28B.40.780; 28.81.580.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.35.790 Other laws not repealed or limited.

RCW 28B.35.700 through 28B.35.790 as now or hereafter amended is concurrent with other legislation with reference to providing funds for the construction of buildings at the regional universities or The Evergreen State College and is not to be construed as repealing or limiting any existing provision of law with reference thereto. [1977 ex.s. c 169 § 91; 1969 ex.s. c 223 § 28B.40.790. Prior: 1961 ex.s. c 14 § 10. Formerly RCW 28B.40.790; 28.81.590.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Chapter 28B.40

THE EVERGREEN STATE COLLEGE

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28B.40.010 Designation. The only state college in Washington shall be in Thurston county, The Evergreen State College. [1977 ex.s. c 169 § 64; 1969 ex.s. c 223 § 28B.40.010. Prior: 1967 c 47 § 6; 1961 c 62 § 2; 1957 c 147 § 2; prior: (i) 1909 c 97 p 251 § 1, part; 1897 c 118 § 212; 1893 c 107 § 1; RRS § 4604, part. (ii) 1937 c 23 § 1; RRS § 4604-1. (iii) 1937 c 23 § 2; RRS § 4604-2. (iv) 1937 c 23 § 3; RRS § 4604-3. Formerly RCW 28.81.010.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.40.100 Trustees—Appointment—Terms—Vacancies. The governance of The Evergreen State College shall be vested in a board of trustees consisting of seven members. They shall be appointed by the governor with the consent of the senate and shall hold their offices for a term of six years from the first day of October and until their successors are appointed and qualified. In case of a vacancy, or when an appointment is made after the date of expiration of the term, the governor shall fill the vacancy for the remainder of the term of the trustee whose office has become vacant or expired.

No more than the terms of two members will expire simultaneously on the last day of September in any one year. [1985 c 137 § 2; 1979 ex.s. c 103 § 5; 1977 ex.s. c 169 § 65; 1973 c 62 § 11; 1969 ex.s. c 223 § 28B.40.100. Prior: 1967 ex.s. c 5 § 2; 1957 c 147 § 3; prior: (i) 1909 c 97 p 251 § 1, part; 1897 c 118 § 212; 1893 c 107 § 1; RRS § 4604, part. (ii) 1909 c 97 p 251 § 2; 1897 c 118 § 213; 1893 c 107 § 2; RRS § 4605. Formerly RCW 28.81.020.]

Present terms not affected—Severability—1979 ex.s. c 103: See notes following RCW 28B.20.100.

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Savings—Severability—1973 c 62: See notes following RCW 28B.10.510.

28B.40.105 Trustees—Organization and officers of board—Quorum. The board of The Evergreen State College trustees shall elect one of its members chairman, and it shall elect a secretary, who may or may not be a member of the board. The board shall have power to adopt bylaws for its government and for the government of the school, which bylaws shall not be inconsistent with law, and to prescribe the duties of its officers, committees and employees. A majority of the board shall constitute a quorum for the transaction of all business. [1977 ex.s. c 169 § 66; 1969 ex.s. c 223 § 28B.40.105. Prior: 1909 p 252 § 3; RRS § 4606; prior: 1897 c 118 § 214; 1893 c 107 § 3. Formerly RCW 28.81.030 and 28.81.050(1), (2).]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.40.110 Trustees—Meetings of board. The board of The Evergreen State College trustees shall hold at least two regular meetings each year, at such times as may be provided by the board. Special meetings shall be held as may be deemed necessary, whenever called by the chairman or by a majority of the board. Public notice of all meetings shall be given in accordance with chapter 42.32 RCW. [1977 ex.s. c 169 § 67; 1969 ex.s. c 223 § 28B.40.110. Prior: 1917 c 128 § 1, part; 1909 c 97 p 253 § 6, part; RRS § 4609, part; prior: 1897 c 118 § 217, part; 1893 c 107 § 6, part. Formerly RCW 28.81.040, part.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Open public meetings act: Chapter 42.30 RCW.

28B.40.120 Trustees—General powers and duties of board. In addition to any other powers and duties prescribed by law, the board of trustees of The Evergreen State College:

(1) Shall have full control of the state college and its property of various kinds, except as otherwise provided by law.

(2) Shall employ the president of the state college, his assistants, members of the faculty, and other employees of the institution, who, except as otherwise provided by law, shall hold their positions, until discharged therefrom by the board for good and lawful reason.

(3) With the assistance of the faculty of the state college, shall prescribe the course of study in the various schools and departments thereof and publish such catalogues thereof as the board deems necessary: PROVIDED, That the state board of education shall determine the requisites for and give program approval of all courses leading to teacher certification by such board.

(4) Establish such divisions, schools or departments necessary to carry out the purposes of the college and not otherwise proscribed by law.

(5) Except as otherwise provided by law, may establish and erect such new facilities as determined by the board to be necessary for the college.

(6) May acquire real and other property as provided in RCW 28B.10.020, as now or hereafter amended.

(7) Except as otherwise provided by law, may purchase all supplies and purchase or lease equipment and other personal property needed for the operation or maintenance of the college.

(8) May establish, lease, operate, equip and maintain self-supporting facilities in the manner provided in RCW 28B.10.300 through 28B.10.330, as now or hereafter amended.

(9) Except as otherwise provided by law, to enter into such contracts as the trustees deem essential to college purposes.

(10) May receive such gifts, grants, conveyances, devises and bequests of real or personal property from whatsoever source, as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out the college programs; sell, lease or exchange, invest or expend the same or the proceeds, rents, profits and income thereof except as limited by the terms and conditions thereof; and adopt regulations to govern the receipt and expenditure of the proceeds, rents, profits and income thereof.

(11) Subject to the approval of the higher education coordinating board pursuant to RCW 28B.80.340, offer new degree programs, offer off-campus programs, participate in consortia or centers, contract for off-campus educational programs, and purchase or lease major off-campus facilities.

(12) May promulgate such rules and regulations, and perform all other acts not forbidden by law, as the board of trustees may in its discretion deem necessary or appropriate to the administration of the college. [1985 c 370 § 95; 1977 ex.s. c 169 § 68; 1969 ex.s. c 223 § 28B.40.120. Prior: 1909 c 97 p 252 § 4; RRS § 4607; prior: 1905 c 85 § 1; 1897 c 118 § 215; 1893 c 107 § 4. Formerly RCW 28.81.050.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.40.190 Trustees—Fire protection services. Subject to the provisions of RCW 35.21.779, the board of trustees of The Evergreen State College may:

(1) Contract for such fire protection services as may be necessary for the protection and safety of the students, staff and property of the college;

(2) By agreement pursuant to the provisions of chapter 239, Laws of 1967 (chapter 39.34 RCW), as now or hereafter amended, join together with other agencies or political subdivisions of the state or federal government and otherwise share in the accomplishment of any of the purposes of subsection (1) of this section:

PROVIDED, HOWEVER, That neither the failure of the trustees to exercise any of its powers under this section nor anything herein shall detract from the lawful and existing powers and duties of political subdivisions of the state to provide the necessary fire protection equipment and services to persons and property within their jurisdiction. [1992 c 117 § 2; 1977 ex.s. c 169 § 69; 1970 ex.s. c 15 § 28.]

Findings—1992 c 117: See note following RCW 35.21.775.

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Severability—1970 ex.s. c 15: See note following RCW 28A.230.160.

28B.40.195 Treasurer—Appointment, term, duties, bonds. Each board of state college trustees shall appoint a treasurer who shall be the financial officer of the board and who shall hold office during the pleasure of the board. Each treasurer shall render a true and faithful account of all moneys received and paid out by him, and shall give bond for the faithful performance of the duties of his office in such amount as the trustees require: **PROVIDED,** That the respective colleges shall pay the fees for any such bonds. [1977 c 52 § 1.]

Regional universities—Designation: RCW 28B.35.010.

28B.40.196 Credits—State-wide transfer policy and agreement—Establishment. See RCW 28B.80.280 and 28B.80.290.

28B.40.200 Bachelor degrees authorized. The degree of bachelor of arts or the degree of bachelor of science and/or the degree of bachelor of arts in education may be granted to any student who has completed a four-year course of study or the equivalent thereof in The Evergreen State College. [1977 ex.s. c 169 § 70; 1969 ex.s. c 223 § 28B.40.200. Prior: 1967 c 231 § 1; 1967 c 47 § 7; 1947 c 109 § 1; 1933 c 13 § 1; Rem. Supp. 1947 § 4618-1. Formerly RCW 28.81.052; 28.81.050(16).]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.40.206 Degrees through master's degrees authorized—Limitations—Honorary bachelor's or master's degrees. In addition to all other powers and duties given to them by law, the board of trustees of The Evergreen State College is hereby authorized to grant any degree through the master's degree to any student who has completed a program of study and/or research in those areas which are determined by the faculty and board of trustees of the

college to be appropriate for the granting of such degree: **PROVIDED,** That any degree authorized under this section shall be subject to the review and approval of the higher education coordinating board.

The board of trustees, upon recommendation of the faculty, may also confer honorary bachelor's or master's degrees upon persons other than graduates of the institution, in recognition of their learning or devotion to education, literature, art, or science. No degree may be conferred in consideration of the payment of money or the donation of any kind of property. [1991 c 58 § 3; 1985 c 370 § 85; 1979 ex.s. c 78 § 1.]

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability—1979 ex.s. c 78: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 78 § 4.] This applies to RCW 28B.40.206, 28B.40.240 and 28B.40.244.

28B.40.230 Certificates, diplomas—Signing—Contents. Every diploma issued by The Evergreen State College shall be signed by the chairman of the board of trustees and by the president of the state college, and sealed with the appropriate seal. In addition to the foregoing, teaching certificates shall be countersigned by the state superintendent of public instruction. Every certificate shall specifically state what course of study the holder has completed and for what length of time such certificate is valid in the schools of the state. [1977 ex.s. c 169 § .72; 1969 ex.s. c 223 § 28B.40.230. Prior: 1917 c 128 § 4; 1909 c 97 p 254 § 9; RRS § 4615; prior: 1897 c 118 § 220; 1895 c 146 § 2; 1893 c 107 § 13. Formerly RCW 28.81.056; 28.81.050(15).]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.40.300 Model schools and training departments—Purpose. A model school or schools or training departments may be provided for The Evergreen State College, in which students, before graduation, may have actual practice in teaching or courses relative thereto under the supervision and observation of critic teachers. All schools or departments involved herewith shall organize and direct their work being cognizant of public school needs. [1977 ex.s. c 169 § 73; 1969 ex.s. c 223 § 28B.40.300. Prior: 1917 c 128 § 2; 1909 c 97 p 253 § 8; RRS § 4611; prior: 1897 c 118 § 219; 1893 c 107 § 12. Formerly RCW 28.81.058; 28.81.050(12).]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.40.305 Model schools and training departments—Trustees to estimate number of pupils required. The board of trustees of The Evergreen State College, if having a model school or training department as authorized by RCW 28B.40.300, shall, on or before the first Monday of September of each year, file with the board of the school district or districts in which such state college is situated, a certified statement showing an estimate of the number of public school pupils who will be required to make up such model school and specifying the number required for each

grade for which training for students is required. [1977 ex.s. c 169 § 74; 1969 ex.s. c 223 § 28B.40.305. Prior: 1907 c 97 § 1; RRS § 4612. Formerly RCW 28.81.059; 28.81.050(13).]

~~Severability—Nomenclature—Savings—1977 ex.s. c 169:~~ See notes following RCW 28B.10.016.

28B.40.310 Model schools and training departments—Requisitioning of pupils—President may refuse admission. It shall thereupon be the duty of the board of the school district or districts with which such statement has been filed, to apportion for attendance to the said model school or training department, a sufficient number of pupils from the public schools under the supervision of said board as will furnish to The Evergreen State College the number of pupils required in order to maintain such facility: PROVIDED, That the president of said state college may refuse to accept any such pupil as in his judgment would tend to reduce the efficiency of said model school or training department. [1977 ex.s. c 169 § 75; 1969 ex.s. c 223 § 28B.40.310. Prior: 1907 c 97 § 2; RRS § 4613. Formerly RCW 28.81.060.]

~~Severability—Nomenclature—Savings—1977 ex.s. c 169:~~ See notes following RCW 28B.10.016.

28B.40.315 Model schools and training departments—Report of attendance. Annually, on or before the date for reporting the school attendance of the school district in which said model school or training department is situated, for the purpose of taxation for the support of the common schools, the board of trustees of The Evergreen State College, since having supervision over the same, shall file with the board of the school district or districts, in which such model school or training department is situated, a report showing the number of common school pupils at each such model school or training department during the school year last passed, and the period of their attendance in the same form that reports of public schools are made. Any superintendent of the school district so affected shall, in reporting the attendance in said school district, segregate the attendance at said model school or training department, from the attendance in the other schools of said district: PROVIDED, That attendance shall be credited, if credit be given therefor, to the school district in which the pupil resides. [1977 ex.s. c 169 § 76; 1969 ex.s. c 223 § 28B.40.315. Prior: 1917 c 128 § 3; 1907 c 97 § 3; RRS § 4614. Formerly RCW 28.81.061; 28.81.050(14).]

~~Severability—Nomenclature—Savings—1977 ex.s. c 169:~~ See notes following RCW 28B.10.016.

28B.40.320 High-technology education and training. See chapter 28B.65 RCW.

28B.40.350 Suspension and expulsion. Any student may be suspended or expelled from The Evergreen State College who is found to be guilty of an infraction of the regulations of the institution. [1977 ex.s. c 169 § 77; 1969 ex.s. c 223 § 28B.40.350. Prior: 1961 ex.s. c 13 § 2, part; prior: (i) 1909 c 97 p 255 § 13; RRS § 4620. (ii) 1921 c 136 § 1, part; 1905 c 85 § 3, part; RRS § 4616, part. Formerly RCW 28.81.070.]

~~Severability—Nomenclature—Savings—1977 ex.s. c 169:~~ See notes following RCW 28B.10.016.

28B.40.360 State college fees. See chapter 28B.15 RCW.

28B.40.361 Exemption of certain veterans from payment of fees. The board of trustees of The Evergreen State College may exempt from the payment of tuition or services and activities fees, except for individual instruction fees, (1) all veterans who served in the armed forces of the United States who have served the United States during any period of war as defined in RCW 41.04.005 and who shall have served with evidence of conduct other than undesirable, bad conduct or dishonorable upon release from active service: PROVIDED, That such person is no longer entitled to federal vocational or educational benefits conferred by virtue of his military service: PROVIDED FURTHER, That such exemptions shall be provided only to those persons otherwise covered who were enrolled in state colleges on or before October 1, 1977, and (2) all children of any law enforcement officer or fire fighter who lost his life or became totally disabled in the line of duty while employed by any public law enforcement agency or full time or volunteer fire department in this state: PROVIDED, That such persons may receive the exemption only if they begin their course of study at The Evergreen State College within ten years of their graduation from high school. [1990 c 154 § 4; 1985 c 390 § 53; 1977 ex.s. c 322 § 11; 1977 ex.s. c 169 § 78; 1973 1st ex.s. c 191 § 3; 1971 ex.s. c 279 § 16; 1969 ex.s. c 269 § 9. Cf. 1969 ex.s. c 269 § 5. Formerly RCW 28.81.084.]

~~Severability—1977 ex.s. c 322:~~ See note following RCW 28B.15.065.

~~Severability—Nomenclature—Savings—1977 ex.s. c 169:~~ See notes following RCW 28B.10.016.

~~Effective date—1973 1st ex.s. c 191:~~ See note following RCW 28B.15.380.

~~Severability—1971 ex.s. c 279:~~ See note following RCW 28B.15.005.

"Totally disabled" defined for certain purposes: RCW 28B.15.385.

28B.40.370 Disposition of building fees and normal school fund revenues—Bond payments—Capital projects accounts for construction, equipment, maintenance of buildings, etc. See RCW 28B.35.370.

28B.40.380 Extension departments. In order to assist teachers in service, candidates for certificates, and others, The Evergreen State College shall establish and maintain an extension department. The work of the department may supplement the previous training of teachers in service and comprise subjects included in the state college curriculum, or otherwise.

In order to prevent overlapping of territory in connection with extension work, the state board of education shall make a definite assignment of territory to said institution: PROVIDED, That such assignment of territory shall not preclude any other contractual arrangements initiated by The Evergreen State College to carry out its duties under this section. The head of the extension department of the state college, after being assigned specific territory, shall cooper-

ate with the several educational service district superintendents or educational executive officers of the educational service districts in making public the courses or seminars available for each year, such information being forwarded by the head of the extension department to the state superintendent of public instruction.

A report of the work accomplished by any such extension department during the preceding school year shall be made by the board of trustees upon request of the governor or any member of the legislature. [1977 ex.s. c 169 § 80; 1975 1st ex.s. c 275 § 147; 1969 ex.s. c 176 § 155; 1969 ex.s. c 223 § 28B.40.380. Prior: 1965 c 139 § 23; 1917 c 128 § 5; RRS § 4617. Formerly RCW 28.81.100, 28.71.080, 28.81.050, part.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.310.010.

28B.40.390 Duties of president. The president of The Evergreen State College shall have general supervision of the college and see that all laws and rules of the board of trustees are observed. [1977 ex.s. c 169 § 81; 1969 ex.s. c 223 § 28B.40.390. Prior: 1909 c 97 p 253 § 7; RRS § 4610; prior: 1897 c 118 § 218; 1893 c 107 § 7. Formerly RCW 28.81.110.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.40.500 Annuities and retirement income plans for faculty members. See RCW 28B.10.400 through 28B.10.423.

28B.40.505 Tax deferred annuities for employees. See RCW 28B.10.480.

FINANCING BUILDINGS AND FACILITIES—1961 ACT

28B.40.700 Construction, remodeling, improvement, financing, etc.—Authorized. See RCW 28B.35.700.

28B.40.710 Definitions. See RCW 28B.35.710.

28B.40.720 Contracts, issuance of evidences of indebtedness, bonds, acceptance of grants. See RCW 28B.35.720.

28B.40.730 Bonds—Issuance, sale, form, term, interest, etc.—Covenants—Deposit of proceeds. See RCW 28B.35.730.

28B.40.740 Disposition of building fees and normal school fund revenues—Bond payments, etc. See RCW 28B.35.370.

28B.40.750 Funds payable into bond retirement funds—Pledge of building fees. See RCW 28B.35.750.

28B.40.751 Disposition of certain normal school fund revenues. See RCW 28B.35.751.

28B.40.760 Additional powers of board—Issuance of bonds, investments, transfer of funds, etc. See RCW 28B.35.760.

28B.40.770 Refunding bonds. See RCW 28B.35.770.

28B.40.780 Bonds not general obligation—Legislature may provide additional means of payment. See RCW 28B.35.780.

28B.40.790 Other laws not repealed or limited. See RCW 28B.35.790.

28B.40.795 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and The Evergreen State College. See RCW 28B.10.300 through 28B.10.330.

28B.40.810 The Evergreen State College—Established. There is hereby established in Thurston county a state college, The Evergreen State College. [1969 ex.s. c 223 § 28B.40.810. Prior: 1967 c 47 § 2. Formerly RCW 28.81.610.]

Legislative declaration of purpose: See 1967 c 47 § 1.

Site selection and initial procedure to prepare college for reception of students: See 1967 c 47 § 4.

28B.40.820 The Evergreen State College—Trustees—Appointment—Terms. The terms of office and date of commencement thereof of the five member board of trustees of The Evergreen State College appointed by the governor prior to August 1, 1967, shall be the same as prescribed by law for trustees of state colleges under RCW 28B.40.100, as now or hereafter amended, except that initial appointments shall be for terms as follows: One for two years, one for three years, one for four years, one for five years, and one for six years. [1969 ex.s. c 223 § 28B.40.820. Prior: 1967 c 47 § 3. Formerly RCW 28.81.620.]

28B.40.830 The Evergreen State College—Trustees, powers and duties—Existing statutes as applicable to college—Federal benefits and donations. The board of trustees of The Evergreen State College shall have all the powers and duties as are presently or may hereafter be granted to existing state colleges by law. All statutes pertaining to the existing state colleges shall have full force and application to The Evergreen State College.

The Evergreen State College is hereby deemed entitled to receive and share in all the benefits and donations made and given to similar institutions by the enabling act or other federal law to the same extent as other state colleges are entitled to receive and share in such benefits and donations. [1969 ex.s. c 223 § 28B.40.830. Prior: 1967 c 47 § 5. Formerly RCW 28.81.630.]

Chapter 28B.45
BRANCH CAMPUSES

Sections

- 28B.45.010 Legislative findings.
 28B.45.020 University of Washington—Central Puget Sound area.
 28B.45.030 Washington State University—Tri-Cities area.
 28B.45.040 Washington State University—Southwest Washington area.
 28B.45.050 Washington State University and Eastern Washington University—Spokane area.
 28B.45.060 Central Washington University—Yakima area.
 28B.45.070 Authorization subject to legislative appropriation.
Branch campuses—Higher education coordinating board responsibilities: RCW 28B.80.500 through 28B.80.520.

28B.45.010 Legislative findings. The legislature finds that the benefits of higher education should be more widely available to the citizens of the state of Washington. The legislature also finds that a citizen's place of residence can restrict that citizen's access to educational opportunity at the upper division and graduate level.

Because most of the state-supported baccalaureate universities are located in areas removed from major metropolitan areas, the legislature finds that many of the state's citizens, especially those citizens residing in the central Puget Sound area, the Tri-Cities, Spokane, Vancouver, and Yakima, have insufficient and inequitable access to upper-division baccalaureate and graduate education.

This lack of sufficient educational opportunities in urban areas makes it difficult or impossible for place-bound individuals, who are unable to relocate, to complete a baccalaureate or graduate degree. It also exacerbates the difficulty financially needy students have in attending school, since many of those students need to work, and work is not always readily available in some communities where the baccalaureate institutions of higher education are located.

The lack of sufficient educational opportunities in metropolitan areas also affects the economy of the underserved communities. Businesses benefit from access to the research and teaching capabilities of institutions of higher education. The absence of these institutions from some of the state's major urban centers prevents beneficial interaction between businesses in these communities and the state's universities.

The Washington state master plan for higher education, adopted by the higher education coordinating board, recognizes the need to expand upper-division and graduate educational opportunities in the state's large urban centers. The board has also attempted to provide a means for helping to meet future educational demand through a system of branch campuses in the state's major urban areas.

The legislature endorses the assignment of responsibility to serve these urban centers that the board has made to various institutions of higher education. The legislature also endorses the creation of branch campuses for the University of Washington and Washington State University.

The legislature recognizes that, among their other responsibilities, the state's comprehensive community colleges share with the four-year universities and colleges the responsibility of providing the first two years of a baccalaureate education. It is the intent of the legislature that the four-year institutions and the community colleges work as cooperative partners to ensure the successful and

efficient operation of the state's system of higher education. The legislature further intends that the four-year institutions work cooperatively with the community colleges to ensure that branch campuses are operated as models of a two plus two educational system. [1989 1st ex.s. c 7 § 1.]

28B.45.020 University of Washington—Central Puget Sound area. The University of Washington is responsible for ensuring the expansion of upper-division and graduate educational programs in the central Puget Sound area under rules or guidelines adopted by the higher education coordinating board. The University of Washington shall meet that responsibility through the operation of at least two branch campuses. One branch campus shall be located in the Tacoma area. Another branch campus shall be located in the Bothell-Woodinville area. [1989 1st ex.s. c 7 § 3.]

28B.45.030 Washington State University—Tri-Cities area. Washington State University is responsible for providing upper-division and graduate level higher education programs to the citizens of the Tri-Cities area, under rules or guidelines adopted by the higher education coordinating board. Washington State University shall meet that responsibility through the operation of a branch campus in the Tri-Cities area. The branch campus shall replace and supersede the Tri-Cities university center. All land, facilities, equipment, and personnel of the Tri-Cities university center shall be transferred from the University of Washington to Washington State University. [1989 1st ex.s. c 7 § 4.]

28B.45.040 Washington State University—Southwest Washington area. Washington State University is responsible for providing upper-division and graduate level higher education programs to the citizens of the southwest Washington area, under rules or guidelines adopted by the higher education coordinating board. Washington State University shall meet that responsibility through the operation of a branch campus in the southwest Washington area. [1989 1st ex.s. c 7 § 5.]

28B.45.050 Washington State University and Eastern Washington University—Spokane area. Washington State University and Eastern Washington University are responsible for providing upper-division and graduate level programs to the citizens of the Spokane area, under rules or guidelines adopted by the joint center for higher education. However, before any degree is authorized under this section it shall be subject to the review and approval of the higher education coordinating board. Washington State University shall meet its responsibility through the operation of a branch campus in the Spokane area. Eastern Washington University shall meet its responsibility through the operation of programs and facilities in Spokane. [1991 c 205 § 11; 1989 1st ex.s. c 7 § 6.]

Effective date—1991 c 205: See RCW 28B.25.900.

28B.45.060 Central Washington University—Yakima area. Central Washington University is responsible for providing upper-division and graduate level higher education programs to the citizens of the Yakima area, under

rules or guidelines adopted by the higher education coordinating board. [1989 1st ex.s. c 7 § 7.]

28B.45.070 Authorization subject to legislative appropriation. Authorization for the programs, increases, and facilities described in *this act is subject to legislative appropriation. [1989 1st ex.s. c 7 § 14.]

*Reviser's note: "This act" consists of the enactment of RCW 28B.10.060, 28B.45.010 through 28B.45.070, and 28B.80.500 through 28B.80.540, the 1989 1st ex.s. c 7 amendment to RCW 28B.25.020, and the repeal of RCW 28B.30.510.

Chapter 28B.50

COMMUNITY AND TECHNICAL COLLEGES

(Formerly: Community colleges)

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- 28B.50.030 Definitions.
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28B.50.010 Short title. This chapter shall be known as and may be cited as the community and technical college

act of 1991. [1991 c 238 § 20; 1969 ex.s. c 223 § 28B.50.010. Prior: 1967 ex.s. c 8 § 1. Formerly RCW 28.85.010.]

28B.50.020 Purpose. The purpose of this chapter is to provide for the dramatically increasing number of students requiring high standards of education either as a part of the continuing higher education program or for occupational education and training, or for adult basic skills and literacy education, by creating a new, independent system of community and technical colleges which will:

(1) Offer an open door to every citizen, regardless of his or her academic background or experience, at a cost normally within his or her economic means;

(2) Ensure that each college district shall offer thoroughly comprehensive educational, training and service programs to meet the needs of both the communities and students served by combining high standards of excellence in academic transfer courses; realistic and practical courses in occupational education, both graded and ungraded; community services of an educational, cultural, and recreational nature; and adult education, including basic skills and general, family, and work force literacy programs and services. However, college districts containing only technical colleges shall maintain programs solely for occupational education, basic skills, and literacy purposes, and, for as long as a need exists, may continue those programs, activities, and services offered by the technical colleges during the twelve-month period preceding September 1, 1991;

(3) Provide for basic skills and literacy education, and occupational education and technical training at technical colleges in order to prepare students for careers in a competitive work force;

(4) Provide or coordinate related and supplemental instruction for apprentices at community and technical colleges;

(5) Provide administration by state and local boards which will avoid unnecessary duplication of facilities or programs; and which will encourage efficiency in operation and creativity and imagination in education, training and service to meet the needs of the community and students;

(6) Allow for the growth, improvement, flexibility and modification of the community colleges and their education, training and service programs as future needs occur; and

(7) Establish firmly that community colleges are, for purposes of academic training, two year institutions, and are an independent, unique, and vital section of our state's higher education system, separate from both the common school system and other institutions of higher learning, and never to be considered for conversion into four-year liberal arts colleges. [1991 c 238 § 21; 1969 ex.s. c 261 § 17; 1969 ex.s. c 223 § 28B.50.020. Prior: 1967 ex.s. c 8 § 2.]

Severability—1969 ex.s. c 261: "If any provision of this 1969 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1969 ex.s. c 261 § 37. Formerly RCW 28.85.911.]

28B.50.030 Definitions. As used in this chapter, unless the context requires otherwise, the term:

(1) "System" shall mean the state system of community and technical colleges, which shall be a system of higher education.

(2) "Board" shall mean the work force training and education coordinating board.

(3) "College board" shall mean the state board for community and technical colleges created by this chapter.

(4) "Director" shall mean the administrative director for the state system of community and technical colleges.

(5) "District" shall mean any one of the community and technical college districts created by this chapter.

(6) "Board of trustees" shall mean the local community and technical college board of trustees established for each college district within the state.

(7) "Occupational education" shall mean that education or training that will prepare a student for employment that does not require a baccalaureate degree.

(8) "K-12 system" shall mean the public school program including kindergarten through the twelfth grade.

(9) "Common school board" shall mean a public school district board of directors.

(10) "Community college" shall include those higher education institutions that conduct education programs under RCW 28B.50.020.

(11) "Technical college" shall include those higher education institutions with the sole mission of conducting occupational education, basic skills, literacy programs, and offering on short notice, when appropriate, programs that meet specific industry needs. The programs of technical colleges shall include, but not be limited to, continuous enrollment, competency-based instruction, industry-experienced faculty, curriculum integrating vocational and basic skills education, and curriculum approved by representatives of employers and labor. For purposes of this chapter, technical colleges shall include Lake Washington Vocational-Technical Institute, Renton Vocational-Technical Institute, Bates Vocational-Technical Institute, Clover Park Vocational Institute, and Bellingham Vocational-Technical Institute.

(12) "Adult education" shall mean all education or instruction, including academic, vocational education or training, basic skills and literacy training, and "occupational education" provided by public educational institutions, including common school districts for persons who are eighteen years of age and over or who hold a high school diploma or certificate. However, "adult education" shall not include academic education or instruction for persons under twenty-one years of age who do not hold a high school degree or diploma and who are attending a public high school for the sole purpose of obtaining a high school diploma or certificate, nor shall "adult education" include education or instruction provided by any four year public institution of higher education.

(13) "Dislocated forest product worker" shall mean a forest products worker who: (a)(i) Has been terminated or received notice of termination from employment and is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for his or her skills in that occupation or industry; or (ii) is self-employed and has been displaced from his or her business because of the diminishing demand for the business's services or goods; and (b) at the time of last

separation from employment, resided in or was employed in a timber impact area.

(14) "Forest products worker" shall mean a worker in the forest products industries affected by the reduction of forest fiber enhancement, transportation, or production. The workers included within this definition shall be determined by the employment security department, but shall include workers employed in the industries assigned the major group standard industrial classification codes "24" and "26" and the industries involved in the harvesting and management of logs, transportation of logs and wood products, processing of wood products, and the manufacturing and distribution of wood processing and logging equipment. The commissioner may adopt rules further interpreting these definitions. For the purposes of this subsection, "standard industrial classification code" means the code identified in RCW 50.29.025(6)(c).

(15) "Timber impact area" shall mean:

(a) A county having a population of less than five hundred thousand, or a city or town located within a county having a population of less than five hundred thousand, and meeting two of the following three criteria, as determined by the employment security department, for the most recent year such data is available: (i) A lumber and wood products employment location quotient at or above the state average; (ii) projected or actual direct lumber and wood products job losses of one hundred positions or more, except counties having a population greater than two hundred thousand but less than five hundred thousand must have direct lumber and wood products job losses of one thousand positions or more; or (iii) an annual unemployment rate twenty percent or more above the state average; or

(b) Additional communities as the economic recovery coordinating board, established in RCW 43.31.631, designates based on a finding by the board that each designated community is socially and economically integrated with areas that meet the definition of a timber impact area under (a) of this subsection. [1992 c 21 § 5. Prior: 1991 c 315 § 15; 1991 c 238 § 22; 1985 c 461 § 14; 1982 1st ex.s. c 53 § 24; 1973 c 62 § 12; 1969 ex.s. c 261 § 18; 1969 ex.s. c 223 § 28B.50.030; prior: 1967 ex.s. c 8 § 3.]

Intent—1991 c 315: See note following RCW 50.12.270.

Severability—Conflict with federal requirements—Effective date—1991 c 315: See RCW 50.70.900 through 50.70.902.

Severability—1985 c 461: See note following RCW 41.06.020.

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

Savings—Severability—1973 c 62: See notes following RCW 28B.10.510.

Severability—1969 ex.s. c 261: See note following RCW 28B.50.020.

28B.50.040 College districts enumerated. The state of Washington is hereby divided into twenty-nine college districts as follows:

(1) The first district shall encompass the counties of Clallam and Jefferson;

(2) The second district shall encompass the counties of Grays Harbor and Pacific;

(3) The third district shall encompass the counties of Kitsap and Mason;

(4) The fourth district shall encompass the counties of San Juan, Skagit and Island;

(5) The fifth district shall encompass Snohomish county except for the Northshore common school district and that portion encompassed by the twenty-third district created in subsection (23) of this section: **PROVIDED**, That the fifth district shall encompass the Everett Community College;

(6) The sixth district shall encompass the present boundaries of the common school districts of Seattle and Vashon Island, King county;

(7) The seventh district shall encompass the present boundaries of the common school districts of Shoreline in King county and Northshore in King and Snohomish counties;

(8) The eighth district shall encompass the present boundaries of the common school districts of Lake Washington, Bellevue, Issaquah, Lower Snoqualmie, Mercer Island, Skykomish and Snoqualmie, King county;

(9) The ninth district shall encompass the present boundaries of the common school districts of Federal Way, Highline and South Central, King county;

(10) The tenth district shall encompass the present boundaries of the common school districts of Auburn, Black Diamond, Renton, Enumclaw, Kent, Lester and Tahoma, King county, and the King county portion of Puyallup common school district No. 3;

(11) The eleventh district shall encompass all of Pierce county, except for the present boundaries of the common school districts of Tacoma and Peninsula;

(12) The twelfth district shall encompass Lewis county, the Rochester common school district No. 401, the Tenino common school district No. 402 of Thurston county, and the Thurston county portion of the Centralia common school district No. 401;

(13) The thirteenth district shall encompass the counties of Cowlitz, and Wahkiakum;

(14) The fourteenth district shall encompass the counties of Clark, Skamania and that portion of Klickitat county not included in the sixteenth district;

(15) The fifteenth district shall encompass the counties of Chelan, Douglas and Okanogan;

(16) The sixteenth district shall encompass the counties of Kittitas, Yakima, and that portion of Klickitat county included in United States census divisions 1 through 4;

(17) The seventeenth district shall encompass the counties of Ferry, Lincoln (except consolidated school district 105-157-166J and the Lincoln county portion of common school district 167-202), Pend Oreille, Spokane, Stevens and Whitman;

(18) The eighteenth district shall encompass the counties of Adams and Grant, and that portion of Lincoln county comprising consolidated school district 105-157-166J and common school district 167-202;

(19) The nineteenth district shall encompass the counties of Benton and Franklin;

(20) The twentieth district shall encompass the counties of Asotin, Columbia, Garfield and Walla Walla;

(21) The twenty-first district shall encompass Whatcom county;

(22) The twenty-second district shall encompass the present boundaries of the common school districts of Tacoma and Peninsula, Pierce county;

(23) The twenty-third district shall encompass that portion of Snohomish county within such boundaries as the state board for community and technical colleges shall determine: PROVIDED, That the twenty-third district shall encompass the Edmonds Community College;

(24) The twenty-fourth district shall encompass all of Thurston county except the Rochester common school district No. 401, the Tenino common school district No. 402, and the Thurston county portion of the Centralia common school district No. 401;

(25) The twenty-fifth district shall encompass all of Whatcom county;

(26) The twenty-sixth district shall encompass the Northshore, Lake Washington, Bellevue, Mercer Island, Issaquah, Riverview, Snoqualmie Valley and Skykomish school districts;

(27) The twenty-seventh district shall encompass the Renton, Kent, Auburn, Tahoma, and Enumclaw school districts and a portion of the Seattle school district described as follows: Commencing at a point established by the intersection of the Duwamish river and the south boundary of the Seattle Community College District (number six) and thence north along the centerline of the Duwamish river to the west waterway; thence north along the centerline of the west waterway to Elliot Bay; thence along Elliot Bay to a line established by the intersection of the extension of Denny Way to Elliot Bay; thence east along the line established by the centerline of Denny Way to Lake Washington; thence south along the shoreline of Lake Washington to the south line of the Seattle Community College District; and thence west along the south line of the Seattle Community College District to the point of beginning;

(28) The twenty-eighth district shall encompass all of Pierce county; and

(29) The twenty-ninth district shall encompass all of Pierce county. [1991 c 238 § 23; 1988 c 77 § 1; 1981 c 72 § 1; 1973 1st ex.s. c 46 § 7; 1969 ex.s. c 223 § 28B.50.040. Prior: 1967 ex.s. c 8 § 4. Formerly RCW 28.85.040.]

Effective date—1988 c 77: "Section 2 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. The remainder of this act shall take effect July 1, 1988." [1988 c 77 § 12.] "Section 2 of this act" was a temporary section (uncodified).

Severability—1988 c 77: "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." [1988 c 77 § 11.]

District No. 23 Interlocal cooperation agreements by school districts in Snohomish county authorized—1981 c 72: "Any school district within Snohomish county may enter into interlocal cooperation agreements with any community college located within Snohomish county pursuant to the provisions of chapter 39.34 RCW." [1981 c 72 § 8.]

Savings—Provisions of existing collective bargaining agreement—1981 c 72: "Nothing contained in this amendatory act shall be construed to alter any provision of any existing collective bargaining agreement until any such agreement has expired or been modified pursuant to chapter 28B.52 RCW." [1981 c 72 § 9.]

Savings—Generally—1981 c 72: "Nothing in this amendatory act shall be construed to affect any existing rights, nor as affecting any actions, activities, or proceedings validated prior to the effective date of this amendatory act, nor as affecting any civil or criminal proceedings, nor any rule, regulation, or order promulgated, nor any administrative action taken prior to the effective date of this amendatory act, and the validity of any act performed with respect to Edmonds Community College, or any officer or

employee thereof prior to the effective date of this amendatory act, is hereby validated." [1981 c 72 § 10.]

Effective date of this amendatory act defined—1981 c 72: "The phrase "the effective date of this amendatory act" as used in sections 3, 4, 6 and 10 of this amendatory act shall mean July 1, 1981: PROVIDED, That nothing in this amendatory act shall prohibit any transfers mandated in section 4 hereof nor the action contemplated in section 11 hereof prior to such July 1, 1981." [1981 c 72 § 12.]

Severability—1981 c 72: "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." [1981 c 72 § 13.]

Severability—1973 1st ex.s. c 46: See note following RCW 28B.10.704.

28B.50.050 State board for community and technical colleges. There is hereby created the "state board for community and technical colleges", to consist of nine members who represent the geographic diversity of the state, and who shall be appointed by the governor, with the consent of the senate. At least two members shall reside east of the Cascade mountains. In making these appointments, the governor shall attempt to provide geographic balance and give consideration to representing labor, business, women, and racial and ethnic minorities, among the membership of the board. At least one member of the board shall be from business and at least one member of the board shall be from labor. The current members of the state board for community college education on September 1, 1991, shall serve on the state board for community and technical colleges until their terms expire. Successors to these members shall be appointed according to the terms of this section. A ninth member shall be appointed by September 1, 1991, for a complete term.

The successors of the members initially appointed shall be appointed for terms of four years except that a person appointed to fill a vacancy occurring prior to the expiration of any term shall be appointed only for the remainder of such term. Each member shall serve until the appointment and qualification of his or her successor. All members shall be citizens and bona fide residents of the state.

Members of the college board shall be compensated in accordance with RCW 43.03.240 and shall receive reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060 for each day actually spent in attending to the duties as a member of the college board.

The members of the college board may be removed by the governor for inefficiency, neglect of duty, or malfeasance in office, in the manner provided by RCW 28B.10.500. [1991 c 238 § 30; 1988 c 76 § 1; 1984 c 287 § 64; 1982 1st ex.s. c 30 § 9; 1975-'76 2nd ex.s. c 34 § 74; 1973 c 62 § 13; 1969 ex.s. c 261 § 19; 1969 ex.s. c 223 § 28B.50.050. Prior: 1967 ex.s. c 8 § 5.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

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

Savings—Severability—1973 c 62: See notes following RCW 28B.10.510.

Severability—1969 ex.s. c 261: See note following RCW 28B.50.020.

Appointment of director of state system of community and technical colleges, by: RCW 28B.50.060.

Bond issue for capital projects for community colleges, 1981, board duties: RCW 28B.59D.010 through 28B.59D.070.

Displaced homemaker act, board participation: RCW 28B.04.080.

Employees of, appointment and employment of: RCW 28B.50.060.

Powers and duties: RCW 28B.50.090.

State occupational forecast—Other agencies consulted prior to: RCW 50.38.030.

28B.50.060 Director of the state system of community and technical colleges—Appointment—Term—Qualifications—Salary and travel expenses—Duties. A director of the state system of community and technical colleges shall be appointed by the college board and shall serve at the pleasure of the college board. The director shall be appointed with due regard to the applicant's fitness and background in education, and knowledge of and recent practical experience in the field of educational administration particularly in institutions beyond the high school level. The college board may also take into consideration an applicant's proven management background even though not particularly in the field of education.

The director shall devote his or her time to the duties of his or her office and shall not have any direct pecuniary interest in or any stock or bonds of any business connected with or selling supplies to the field of education within this state, in keeping with chapter 42.18 RCW, the executive conflict of interest act.

The director shall receive a salary to be fixed by the college board and shall be reimbursed for travel expenses incurred in the discharge of his or her official duties in accordance with RCW 43.03.050 and 43.03.060, as now existing or hereafter amended.

The director shall be the executive officer of the college board and serve as its secretary and under its supervision shall administer the provisions of this chapter and the rules, regulations and orders established thereunder and all other laws of the state. The director shall attend, but not vote at, all meetings of the college board. The director shall be in charge of offices of the college board and responsible to the college board for the preparation of reports and the collection and dissemination of data and other public information relating to the state system of community and technical colleges. At the direction of the college board, the director shall, together with the chairman of the college board, execute all contracts entered into by the college board.

The director shall, with the approval of the college board: (1) Employ necessary assistant directors of major staff divisions who shall serve at the director's pleasure on such terms and conditions as the director determines, and (2) subject to the provisions of chapter 28B.16 RCW, the higher education personnel law, the director shall, with the approval of the college board, appoint and employ such field and office assistants, clerks and other employees as may be required and authorized for the proper discharge of the functions of the college board and for whose services funds have been appropriated.

The board may, by written order filed in its office, delegate to the director any of the powers and duties vested in or imposed upon it by this chapter. Such delegated powers and duties may be exercised by the director in the name of the college board. [1991 c 238 § 31; 1975-'76 2nd ex.s. c 34 § 75; 1973 1st ex.s. c 46 § 8; 1973 c 62 § 14;

1969 ex.s. c 261 § 20; 1969 ex.s. c 223 § 28B.50.060. Prior: 1967 ex.s. c 8 § 6.]

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

Severability—1973 1st ex.s. c 46: See note following RCW 28B.10.704.

Savings—Severability—1973 c 62: See notes following RCW 28B.10.510.

Severability—1969 ex.s. c 261: See note following RCW 28B.50.020.

High-technology coordinating board, director or designee member of: RCW 28B.65.040.

28B.50.070 College board—Organization—Meetings—Quorum—Biennial report—Fiscal year. The governor shall make the appointments to the college board.

The college board shall organize, adopt a seal, and adopt bylaws for its administration, not inconsistent herewith, as it may deem expedient and may from time to time amend such bylaws. Annually the board shall elect a chairperson and vice chairperson; all to serve until their successors are appointed and qualified. The college board shall at its initial meeting fix a date and place for its regular meeting. Five members shall constitute a quorum, and no meeting shall be held with less than a quorum present, and no action shall be taken by less than a majority of the college board.

Special meetings may be called as provided by its rules and regulations. Regular meetings shall be held at the college board's established offices in Olympia, but whenever the convenience of the public or of the parties may be promoted, or delay or expenses may be prevented, it may hold its meetings, hearings or proceedings at any other place designated by it. Subject to RCW 40.07.040, the college board shall transmit a report in writing to the governor biennially which report shall contain such information as may be requested by the governor. The fiscal year of the college board shall conform to the fiscal year of the state. [1987 c 505 § 15; 1986 c 130 § 1; 1977 c 75 § 26; 1973 c 62 § 15; 1969 ex.s. c 223 § 28B.50.070. Prior: 1967 ex.s. c 8 § 7. Formerly RCW 28.85.070.]

Savings—Severability—1973 c 62: See notes following RCW 28B.10.510.

Fiscal year defined: RCW 43.88.020.

28B.50.080 College board—Offices and office equipment, including necessary expenses. Suitable offices and office equipment shall be provided by the state for the college board in the city of Olympia, and the college board may incur the necessary expense for office furniture, stationery, printing, incidental expenses, and other expenses necessary for the administration of this chapter. [1969 ex.s. c 223 § 28B.50.080. Prior: 1967 ex.s. c 8 § 8. Formerly RCW 28.85.080.]

28B.50.085 College board—Treasurer—Appointment, duties, bond—Depository. The state board for community and technical colleges shall appoint a treasurer who shall be the financial officer of the board, who shall make such vendor payments and salary payments for the entire community and technical college system as authorized by the state board, and who shall hold office

during the pleasure of the board. All moneys received by the state board and not required to be deposited elsewhere, shall be deposited in a depository selected by the board, which moneys shall be subject to the budgetary and audit provisions of law applicable to state agencies. The depository selected by the state board shall conform to the collateral requirements required for the deposit of other state funds. Disbursement shall be made by check signed by the treasurer. The treasurer shall render a true and faithful account of all moneys received and paid out by him or her and shall give bond for the faithful performance of the duties of his or her office in such amount as the board requires: PROVIDED, That the board shall pay the fee for any such bonds. [1991 c 238 § 32; 1981 c 246 § 4.]

Severability—1981 c 246: See note following RCW 28B.50.090.

28B.50.090 College board—Powers and duties. The college board shall have general supervision and control over the state system of community and technical colleges. In addition to the other powers and duties imposed upon the college board by this chapter, the college board shall be charged with the following powers, duties and responsibilities:

(1) Review the budgets prepared by the boards of trustees, prepare a single budget for the support of the state system of community and technical colleges and adult education, and submit this budget to the governor as provided in RCW 43.88.090;

(2) Establish guidelines for the disbursement of funds; and receive and disburse such funds for adult education and maintenance and operation and capital support of the college districts in conformance with the state and district budgets, and in conformance with chapter 43.88 RCW;

(3) Ensure, through the full use of its authority:

(a) That each college district shall offer thoroughly comprehensive educational, training and service programs to meet the needs of both the communities and students served by combining high standards of excellence in academic transfer courses; realistic and practical courses in occupational education, both graded and ungraded; and community services of an educational, cultural, and recreational nature; and adult education, including basic skills and general, family, and work force literacy programs and services. However, technical colleges, and college districts containing only technical colleges, shall maintain programs solely for occupational education, basic skills, and literacy purposes. For as long as a need exists, technical colleges may continue those programs, activities, and services they offered during the twelve-month period preceding May 17, 1991;

(b) That each college district shall maintain an open-door policy, to the end that no student will be denied admission because of the location of the student's residence or because of the student's educational background or ability; that, insofar as is practical in the judgment of the college board, curriculum offerings will be provided to meet the educational and training needs of the community generally and the students thereof; and that all students, regardless of their differing courses of study, will be considered, known and recognized equally as members of the student body: PROVIDED, That the administrative officers of a community or technical college may deny admission to a prospective

student or attendance to an enrolled student if, in their judgment, the student would not be competent to profit from the curriculum offerings of the college, or would, by his or her presence or conduct, create a disruptive atmosphere within the college not consistent with the purposes of the institution. This subsection (b) shall not apply to competency, conduct, or presence associated with a disability in a person twenty-one years of age or younger attending a technical college;

(4) Prepare a comprehensive master plan for the development of community and technical college education and training in the state; and assist the office of financial management in the preparation of enrollment projections to support plans for providing adequate college facilities in all areas of the state;

(5) Define and administer criteria and guidelines for the establishment of new community and technical colleges or campuses within the existing districts;

(6) Establish criteria and procedures for modifying district boundary lines consistent with the purposes set forth in RCW 28B.50.020 as now or hereafter amended and in accordance therewith make such changes as it deems advisable;

(7) Establish minimum standards to govern the operation of the community and technical colleges with respect to:

(a) Qualifications and credentials of instructional and key administrative personnel, except as otherwise provided in the state plan for vocational education,

(b) Internal budgeting, accounting, auditing, and financial procedures as necessary to supplement the general requirements prescribed pursuant to chapter 43.88 RCW,

(c) The content of the curriculums and other educational and training programs, and the requirement for degrees and certificates awarded by the colleges,

(d) Standard admission policies,

(e) Eligibility of courses to receive state fund support;

(8) Establish and administer criteria and procedures for all capital construction including the establishment, installation, and expansion of facilities within the various college districts;

(9) Encourage innovation in the development of new educational and training programs and instructional methods; coordinate research efforts to this end; and disseminate the findings thereof;

(10) Exercise any other powers, duties and responsibilities necessary to carry out the purposes of this chapter;

(11) Authorize the various community and technical colleges to offer programs and courses in other districts when it determines that such action is consistent with the purposes set forth in RCW 28B.50.020 as now or hereafter amended;

(12) Notwithstanding any other law or statute regarding the sale of state property, sell or exchange and convey any or all interest in any community and technical college real and personal property, except such property as is received by a college district in accordance with RCW 28B.50.140(8), when it determines that such property is surplus or that such a sale or exchange is in the best interests of the community and technical college system;

(13) In order that the treasurer for the state board for community and technical colleges appointed in accordance with RCW 28B.50.085 may make vendor payments, the state

treasurer will honor warrants drawn by the state board providing for an initial advance on July 1, 1982, of the current biennium and on July 1 of each succeeding biennium from the state general fund in an amount equal to twenty-four percent of the average monthly allotment for such budgeted biennium expenditures for the state board for community and technical colleges as certified by the office of financial management; and at the conclusion of such initial month and for each succeeding month of any biennium, the state treasurer will reimburse expenditures incurred and reported monthly by the state board treasurer in accordance with chapter 43.88 RCW: PROVIDED, That the reimbursement to the state board for actual expenditures incurred in the final month of each biennium shall be less the initial advance made in such biennium;

(14) Notwithstanding the provisions of subsection (12) of this section, may receive such gifts, grants, conveyances, devises, and bequests of real or personal property from private sources as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out the community and technical college programs and may sell, lease or exchange, invest or expend the same or the proceeds, rents, profits and income thereof according to the terms and conditions thereof; and adopt regulations to govern the receipt and expenditure of the proceeds, rents, profits and income thereof;

(15) The college board shall have the power of eminent domain;

(16) Provide general supervision over the state's technical colleges. The president of each technical college shall report directly to the director of the state board for community and technical colleges, or the director's designee, until local control is assumed by a new or existing board of trustees as appropriate, except that a college president shall have authority over program decisions of his or her college until the establishment of a board of trustees for that college. The directors of the vocational-technical institutes on March 1, 1991, shall be designated as the presidents of the new technical colleges. [1991 c 238 § 33; 1982 c 50 § 1; 1981 c 246 § 2; 1979 c 151 § 20; 1977 ex.s. c 282 § 4; 1973 c 62 § 16; 1969 ex.s. c 261 § 21; 1969 ex.s. c 223 § 28B.50.090. Prior: 1967 ex.s. c 8 § 9.]

Severability—1981 c 246: "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." [1981 c 246 § 6.]

Severability—1977 ex.s. c 282: See note following RCW 28B.50.870.

Savings—Severability—1973 c 62: See notes following RCW 28B.10.510.

Severability—1969 ex.s. c 261: See note following RCW 28B.50.020.

Construction, reconstruction, equipping facilities—Financing: RCW 28B.50.340.

Development of budget: RCW 43.88.090.

Eminent domain: Title 8 RCW.

State budgeting, accounting, and reporting system: Chapter 43.88 RCW.

28B.50.091 College board—Board to waive fees for students finishing their high school education. See RCW 28B.15.520.

28B.50.092 College board—Program for military personnel—Restrictions as to high school completion program. The state board for community and technical colleges may authorize any board of trustees to do all things necessary to conduct an education, training, and service program authorized by chapter 28B.50 RCW, as now or hereafter amended, for United States military personnel and their dependents, and department of defense civilians and their dependents, at any geographical location: PROVIDED, That such programs shall be limited to those colleges which conducted programs for United States military personnel prior to January 1, 1977: PROVIDED FURTHER, That any high school completion program conducted pursuant to this section shall comply with standards set forth in rules and regulations promulgated by the superintendent of public instruction and the state board of education: AND PROVIDED FURTHER, That the superintendent of public instruction shall issue the certificate or diploma in recognition of high school completion education provided pursuant to this section. [1991 c 238 § 34; 1977 ex.s. c 131 § 1; 1973 c 105 § 1.]

28B.50.093 College board—Program for military personnel—Limitation. Prior to the state board granting authorization for any programs authorized under RCW 28B.50.092, the state board shall determine that such authorization will not deter from the primary functions of the community and technical college system within the state of Washington as prescribed by chapter 28B.50 RCW. [1991 c 238 § 35; 1973 c 105 § 2.]

28B.50.094 College board—Program for military personnel—Costs of funding. The costs of funding programs authorized by RCW 28B.50.092 through 28B.50.094 shall ultimately be borne by grants or fees derived from nonstate treasury sources. [1973 c 105 § 3.]

28B.50.095 College board—Registration at more than one community and technical college. In addition to other powers and duties, the college board may issue rules and regulations permitting a student to register at more than one community and technical college, provided that such student shall pay tuition and fees as if the student were registered at a single college, but not to exceed tuition and fees charged a full-time student as established by RCW 28B.15.502. [1991 c 238 § 36; 1983 c 3 § 40; 1973 c 129 § 1.]

28B.50.096 College board—Cooperation with work force training and education coordinating board. The college board shall cooperate with the work force training and education coordinating board in the conduct of the board's responsibilities under RCW 28C.18.060 and shall provide information and data in a format that is accessible to the board. [1991 c 238 § 79.]

28B.50.098 Appointment of trustees for new college district. In the event a new college district is created, the governor shall appoint new trustees to the district's board of trustees in accordance with RCW 28B.50.100. [1991 c 238 § 134.]

28B.50.100 Boards of trustees—Generally. There is hereby created a board of trustees for each college district as set forth in this chapter. Each board of trustees shall be composed of five trustees, who shall be appointed by the governor for terms commencing October 1st of the year in which appointed. In making such appointments the governor shall give consideration to geographical diversity, and representing labor, business, women, and racial and ethnic minorities, in the membership of the boards of trustees. The boards of trustees for districts containing technical colleges shall include at least one member from business and one member from labor.

The successors of the trustees initially appointed shall be appointed by the governor to serve for a term of five years except that any person appointed to fill a vacancy occurring prior to the expiration of any term shall be appointed only for the remainder of the term. Each member shall serve until a successor is appointed and qualified.

Every trustee shall be a resident and qualified elector of the college district. No trustee may be an employee of the community and technical college system, a member of the board of directors of any school district, or a member of the governing board of any public or private educational institution.

Each board of trustees shall organize itself by electing a chairman from its members. The board shall adopt a seal and may adopt such bylaws, rules and regulations as it deems necessary for its own government. Three members of the board shall constitute a quorum, but a lesser number may adjourn from time to time and may compel the attendance of absent members in such manner as prescribed in its bylaws, rules, or regulations. The district president, or if there be none, the president of the college, shall serve as, or may designate another person to serve as, the secretary of the board, who shall not be deemed to be a member of the board.

Members of the boards of trustees may be removed for misconduct or malfeasance in office in the manner provided by RCW 28B.10.500. [1991 c 238 § 37; 1987 c 330 § 1001; 1983 c 224 § 1; 1979 ex.s. c 103 § 1; 1977 ex.s. c 282 § 2; 1973 c 62 § 17; 1969 ex.s. c 261 § 22; 1969 ex.s. c 223 § 28B.50.100. Prior: 1967 ex.s. c 8 § 10.]

Construction—Application of rules—Severability—1987 c 330: See notes following RCW 28B.12.050.

Severability—1979 ex.s. c 103: See note following RCW 28B.20.100.

Severability—1977 ex.s. c 282: See note following RCW 28B.50.870.

Effective date—1977 ex.s. c 282 §§ 2, 3: "Sections 2 and 3 of this 1977 amendatory act shall not take effect until January 1, 1978." [1977 ex.s. c 282 § 9.]

Savings—Severability—1973 c 62: See notes following RCW 28B.10.510.

Severability—1969 ex.s. c 261: See note following RCW 28B.50.020.

Chief executive officer as secretary of board: RCW 28B.50.130.

28B.50.130 Boards of trustees—Bylaws, rules, and regulations—Chair and vice-chair—Terms—Quorum. Within thirty days of their appointment the various district boards of trustees shall organize, adopt bylaws for its own government, and make such rules and regulations not

inconsistent with this chapter as they deem necessary. At such organizational meeting it shall elect from among its members a chair and vice-chair, each to serve for one year, and annually thereafter shall elect such officers to serve until their successors are appointed or qualified. The chief executive officer of the college district, or designee, shall serve as secretary of the board. Three trustees shall constitute a quorum, and no action shall be taken by less than a majority of the trustees of the board. The district boards shall transmit such reports to the college board as may be requested by the college board. The fiscal year of the district boards shall conform to the fiscal year of the state. [1991 c 238 § 38; 1977 c 75 § 27; 1973 c 62 § 18; 1969 ex.s. c 223 § 28B.50.130. Prior: 1967 ex.s. c 8 § 13. Formerly RCW 28.85.130.]

Savings—Severability—1973 c 62: See notes following RCW 28B.10.510.

District president or president of college as secretary of board: RCW 28B.50.100.

Fiscal year defined: RCW 43.88.020.

28B.50.140 Boards of trustees—Powers and duties.

Each board of trustees:

(1) Shall operate all existing community and technical colleges in its district;

(2) Shall create comprehensive programs of community and technical college education and training and maintain an open-door policy in accordance with the provisions of RCW 28B.50.090(3). However, technical colleges, and college districts containing only technical colleges, shall maintain programs solely for occupational education, basic skills, and literacy purposes. For as long as a need exists, technical colleges may continue those programs, activities, and services they offered during the twelve-month period preceding September 1, 1991;

(3) Shall employ for a period to be fixed by the board a college president for each community and technical college and, may appoint a president for the district, and fix their duties and compensation, which may include elements other than salary. Compensation under this subsection shall not affect but may supplement retirement, health care, and other benefits that are otherwise applicable to the presidents as state employees. The board shall also employ for a period to be fixed by the board members of the faculty and such other administrative officers and other employees as may be necessary or appropriate and fix their salaries and duties. Compensation and salary increases under this subsection shall not exceed the amount or percentage established for those purposes in the state appropriations act by the legislature as allocated to the board of trustees by the state board for community and technical colleges. The state board for community and technical colleges shall adopt rules defining the permissible elements of compensation under this subsection;

(4) May establish, under the approval and direction of the college board, new facilities as community needs and interests demand. However, the authority of boards of trustees to purchase or lease major off-campus facilities shall be subject to the approval of the higher education coordinating board pursuant to RCW 28B.80.340(5);

(5) May establish or lease, operate, equip and maintain dormitories, food service facilities, bookstores and other self-

supporting facilities connected with the operation of the community and technical college;

(6) May, with the approval of the college board, borrow money and issue and sell revenue bonds or other evidences of indebtedness for the construction, reconstruction, erection, equipping with permanent fixtures, demolition and major alteration of buildings or other capital assets, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances, for dormitories, food service facilities, and other self-supporting facilities connected with the operation of the community and technical college in accordance with the provisions of RCW 28B.10.300 through 28B.10.330 where applicable;

(7) May establish fees and charges for the facilities authorized hereunder, including reasonable rules and regulations for the government thereof, not inconsistent with the rules and regulations of the college board; each board of trustees operating a community and technical college may enter into agreements, subject to rules and regulations of the college board, with owners of facilities to be used for housing regarding the management, operation, and government of such facilities, and any board entering into such an agreement may:

(a) Make rules and regulations for the government, management and operation of such housing facilities deemed necessary or advisable; and

(b) Employ necessary employees to govern, manage and operate the same;

(8) May receive such gifts, grants, conveyances, devises and bequests of real or personal property from private sources, as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out the community and technical college programs as specified by law and the regulations of the state college board; sell, lease or exchange, invest or expend the same or the proceeds, rents, profits and income thereof according to the terms and conditions thereof; and adopt regulations to govern the receipt and expenditure of the proceeds, rents, profits and income thereof;

(9) May establish and maintain night schools whenever in the discretion of the board of trustees it is deemed advisable, and authorize classrooms and other facilities to be used for summer or night schools, or for public meetings and for any other uses consistent with the use of such classrooms or facilities for community and technical college purposes;

(10) May make rules and regulations for pedestrian and vehicular traffic on property owned, operated, or maintained by the district;

(11) Shall prescribe, with the assistance of the faculty, the course of study in the various departments of the community and technical college or colleges under its control, and publish such catalogues and bulletins as may become necessary;

(12) May grant to every student, upon graduation or completion of a course of study, a suitable diploma, nonbaccalaureate degree or certificate. Technical colleges shall offer only nonbaccalaureate technical degrees, certificates, or diplomas for occupational courses of study under rules of the college board. Technical colleges in districts twenty-eight and twenty-nine may offer nonbaccalaureate associate of technical or applied arts degrees only in conjunction with a community college the district of which

overlaps with the district of the technical college, and these degrees may only be offered after a contract or agreement is executed between the technical college and the community college. The authority and responsibility to offer transfer level academic support and general education for students of districts twenty-one and twenty-five shall reside exclusively with Whatcom Community College. The board, upon recommendation of the faculty, may also confer honorary associate of arts degrees upon persons other than graduates of the community college, in recognition of their learning or devotion to education, literature, art, or science. No degree may be conferred in consideration of the payment of money or the donation of any kind of property;

(13) Shall enforce the rules and regulations prescribed by the state board for community and technical colleges for the government of community and technical colleges, students and teachers, and promulgate such rules and regulations and perform all other acts not inconsistent with law or rules and regulations of the state board for community and technical colleges as the board of trustees may in its discretion deem necessary or appropriate to the administration of college districts: PROVIDED, That such rules and regulations shall include, but not be limited to, rules and regulations relating to housing, scholarships, conduct at the various community and technical college facilities, and discipline: PROVIDED, FURTHER, That the board of trustees may suspend or expel from community and technical colleges students who refuse to obey any of the duly promulgated rules and regulations;

(14) May, by written order filed in its office, delegate to the president or district president any of the powers and duties vested in or imposed upon it by this chapter. Such delegated powers and duties may be exercised in the name of the district board;

(15) May perform such other activities consistent with this chapter and not in conflict with the directives of the college board;

(16) Notwithstanding any other provision of law, may offer educational services on a contractual basis other than the tuition and fee basis set forth in chapter 28B.15 RCW for a special fee to private or governmental entities, consistent with rules and regulations adopted by the state board for community and technical colleges: PROVIDED, That the whole of such special fee shall go to the college district and be not less than the full instructional costs of such services including any salary increases authorized by the legislature for community and technical college employees during the term of the agreement: PROVIDED FURTHER, That enrollments generated hereunder shall not be counted toward the official enrollment level of the college district for state funding purposes;

(17) Notwithstanding any other provision of law, may offer educational services on a contractual basis, charging tuition and fees as set forth in chapter 28B.15 RCW, counting such enrollments for state funding purposes, and may additionally charge a special supplemental fee when necessary to cover the full instructional costs of such services: PROVIDED, That such contracts shall be subject to review by the state board for community and technical colleges and to such rules as the state board may adopt for that purpose in order to assure that the sum of the supplemental fee and the normal state funding shall not exceed the

projected total cost of offering the educational service: PROVIDED FURTHER, That enrollments generated by courses offered on the basis of contracts requiring payment of a share of the normal costs of the course will be discounted to the percentage provided by the college;

(18) Shall be authorized to pay dues to any association of trustees that may be formed by the various boards of trustees; such association may expend any or all of such funds to submit biennially, or more often if necessary, to the governor and to the legislature, the recommendations of the association regarding changes which would affect the efficiency of such association;

(19) Subject to the approval of the higher education coordinating board pursuant to RCW 28B.80.340(4), may participate in higher education centers and consortia that involve any four-year public or independent college or university; and

(20) Shall perform any other duties and responsibilities imposed by law or rule and regulation of the state board. [1991 c 238 § 39; 1991 c 58 § 1; 1990 c 135 § 1. Prior: 1987 c 407 § 1; 1987 c 314 § 14; 1985 c 370 § 96; 1981 c 246 § 3; 1979 ex.s. c 226 § 11; 1979 c 14 § 6; prior: 1977 ex.s. c 282 § 5; 1977 c 75 § 28; 1973 c 62 § 19; 1970 ex.s. c 15 § 17; prior: 1969 ex.s. c 283 § 30; 1969 ex.s. c 261 § 23; 1969 ex.s. c 223 § 28B.50.140; prior: 1967 ex.s. c 8 § 14.]

Reviser's note: This section was amended by 1991 c 58 § 1 and by 1991 c 238 § 39, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability—1987 c 314: See RCW 28B.52.900.

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability—1981 c 246: See note following RCW 28B.50.090.

Effective date—Severability—1979 ex.s. c 226: See notes following RCW 28B.59C.010.

Severability—1977 ex.s. c 282: See note following RCW 28B.50.870.

Savings—Severability—1973 c 62: See notes following RCW 28B.10.510.

Severability—1970 ex.s. c 15: See note following RCW 28A.230.160.

Severability—1969 ex.s. c 283: See note following RCW 28A.150.050.

Severability—1969 ex.s. c 261: See note following RCW 28B.50.020.

28B.50.1401 Lake Washington Technical College board of trustees. There is hereby created a board of trustees for district twenty-six and Lake Washington Vocational-Technical Institute, hereafter known as Lake Washington Technical College. The members of the board shall be appointed pursuant to the provisions of RCW 28B.50.100. [1991 c 238 § 24.]

28B.50.1402 Renton Technical College board of trustees. There is hereby created a board of trustees for district twenty-seven and Renton Vocational-Technical Institute, hereafter known as Renton Technical College. The members of the board shall be appointed pursuant to the provisions of RCW 28B.50.100. [1991 c 238 § 25.]

28B.50.1403 Bellingham Technical College board of trustees. There is hereby created a board of trustees for district twenty-five and Bellingham Vocational-Technical Institute, hereafter known as Bellingham Technical College. The members of the board shall be appointed pursuant to the provisions of RCW 28B.50.100. [1991 c 238 § 26.]

28B.50.1404 Bates Technical College board of trustees. There is hereby created a new board of trustees for district twenty-eight and Bates Vocational-Technical Institute, hereafter known as Bates Technical College. The members of the board shall be appointed pursuant to the provisions of RCW 28B.50.100. [1991 c 238 § 27.]

28B.50.1405 Clover Park Technical College board of trustees. There is hereby created a new board of trustees for district twenty-nine and Clover Park Vocational-Technical Institute, hereafter known as Clover Park Technical College. The members of the board shall be appointed pursuant to the provisions of RCW 28B.50.100. [1991 c 238 § 28.]

28B.50.141 Credits—State-wide transfer policy and agreement—Establishment. See RCW 28B.80.280 and 28B.80.290.

28B.50.142 Treasurer of board—Duties—Bond. Each board of trustees shall appoint a treasurer who shall be the financial officer of the board and who shall hold office during the pleasure of the board. Each treasurer shall render a true and faithful account of all moneys received and paid out by him or her, comply with the provisions of RCW 28B.50.143, and shall give bond for the faithful performance of the duties of his or her office in such amount as the trustees require: PROVIDED, That the respective community and technical colleges shall pay the fees for any such bonds. [1991 c 238 § 40; 1977 ex.s. c 331 § 1.]

Effective date—Severability—1977 ex.s. c 331: See notes following RCW 28B.15.031.

28B.50.143 Vendor payments, advances or reimbursements for. In order that each college treasurer appointed in accordance with RCW 28B.50.142 may make vendor payments, the state treasurer will honor warrants drawn by each community and technical college providing for one initial advance on July 1 of each succeeding biennium from the state general fund in an amount equal to seventeen percent of each institution's average monthly allotment for such budgeted biennium expenditures as certified by the office of financial management, and at the conclusion of each such initial month, and for each succeeding month of any biennium, the state treasurer will reimburse each institution for each expenditure incurred and reported monthly by each college treasurer in accordance with chapter 43.83 RCW: PROVIDED, That the reimbursement to each institution for actual expenditures incurred in the final month of each biennium shall be less the initial advance. [1991 c 238 § 41; 1985 c 180 § 1; 1979 c 151 § 21; 1977 ex.s. c 331 § 2.]

Effective date—Severability—1977 ex.s. c 331: See notes following RCW 28B.15.031.

28B.50.145 Community or technical college faculty senate. The boards of trustees of the various college districts may create at each community or technical college under their control a faculty senate or similar organization to be selected by periodic vote of the respective faculties thereof. [1991 c 238 § 42; 1969 ex.s. c 283 § 51. Formerly RCW 28.85.145.]

Severability—1969 ex.s. c 283: See note following RCW 28A.150.050.

28B.50.150 Out-of-district residence not to affect enrollment for state resident. Any resident of the state may enroll in any program or course maintained or conducted by a college district upon the same terms and conditions regardless of the district of his or her residence. [1991 c 238 § 43; 1969 ex.s. c 223 § 28B.50.150. Prior: 1967 ex.s. c 8 § 15. Formerly RCW 28.85.150.]

28B.50.205 AIDS information—Community and technical colleges. The state board for community and technical colleges shall make information available to all newly matriculated students on methods of transmission of the human immunodeficiency virus and prevention of acquired immunodeficiency syndrome. The curricula and materials shall be reviewed for medical accuracy by the office on AIDS in coordination with the appropriate regional AIDS service network. [1991 c 238 § 44; 1988 c 206 § 502.]

Severability—1988 c 206: See RCW 70.24.900.

28B.50.215 Overlapping service areas—Regional planning agreements. The colleges in each overlapping service area shall jointly submit for approval to the state board for community and technical colleges not later than December 1, 1991, a regional planning agreement. The agreement shall provide for the ongoing interinstitutional coordination of community and technical college programs and services operated in the overlapping service area. The agreement shall include the means for the adjudication of issues arising from overlapping service areas. The agreement shall include a definitive statement of mission, scope, and purpose for each college including the nature of courses, programs, and services to be offered by each college. The statement shall include a provision that the technical colleges shall not offer courses designed for transfer to baccalaureate granting institutions. This shall not preclude such offerings provided through contracts or agreements with a community college in the service area.

Any part of the agreement that is not approved by all the colleges in the service area, shall be determined by the state board for community and technical colleges. Approved regional planning agreements shall be enforced by the full authority of the state board for community and technical colleges. Changes to the agreement are subject to state board approval.

For the purpose of creating and adopting a regional planning agreement, the trustees of the colleges in Pierce county shall form a county coordinating committee. The county coordinating committee shall consist of eight members. Each college board of trustees in Pierce county shall select two of its members to serve on the county coordinat-

ing committee. The county coordinating committee shall not employ its own staff, but shall instead utilize staff of the colleges in the county. The regional planning agreement adopted by the county coordinating committee shall include, but shall not be limited to: The items listed in this section, the transfer of credits between technical and community colleges, program articulation, and the avoidance of unnecessary duplication in programs, activities, and services. [1991 c 238 § 144.]

28B.50.239 High-technology education and training. See chapter 28B.65 RCW.

28B.50.242 Video telecommunications programming. The state board for community and technical colleges shall provide state-wide coordination of video telecommunications programming for the community and technical college system. [1991 c 238 § 45; 1990 c 208 § 10.]

28B.50.250 Adult education programs in common school districts, limitations—Certain federal programs, administration. The state board for community and technical colleges and the state board of education are hereby authorized to permit, on an ad hoc basis, the common school districts to conduct pursuant to RCW 28B.50.530 a program in adult education in behalf of a college district when such program will not conflict with existing programs of the same nature and in the same geographical area conducted by the college districts: PROVIDED, That federal programs for adult education shall be administered by the state board for community and technical colleges, which agency is hereby declared to be the state educational agency primarily responsible for supervision of adult education in the public schools as defined by *RCW 28B.50.020. [1991 c 238 § 46; 1969 ex.s. c 261 § 25; 1969 ex.s. c 223 § 28B.50.250. Prior: 1967 ex.s. c 8 § 25.]

***Reviser's note:** The reference to RCW 28B.50.020 appears to be erroneous. "Adult education" is defined in RCW 28B.50.030.

Severability—1969 ex.s. c 261: See note following RCW 28B.50.020.

Community education programs: RCW 28A.620.020.

28B.50.252 Districts offering vocational educational programs—Local advisory committees—Advice on current job needs. (1) Each local education agency or college district offering vocational educational programs shall establish local advisory committees to provide that agency or district with advice on current job needs and on the courses necessary to meet these needs.

(2) The local program committees shall:

- (a) Participate in the determination of program goals;
- (b) Review and evaluate program curricula, equipment, and effectiveness;
- (c) Include representatives of business and labor who reflect the local industry, and the community; and
- (d) Actively consult with other representatives of business, industry, labor, and agriculture. [1991 c 238 § 77.]

28B.50.254 Advisory council on adult education—Work force training and education coordinating board to monitor. (1) There is hereby created the Washington

advisory council on adult education. The advisory council shall advise the state board for community and technical colleges and the work force training and education coordinating board concerning adult basic education and literacy programs. The advisory council shall perform all duties of state advisory councils on adult education as specified in P.L. 100-297, as amended. The advisory council's actions shall be consistent with the state comprehensive plan for work force training and education prepared by the work force training and education coordinating board as provided for in RCW 28C.18.060.

(2) The advisory council on adult education shall consist of nine members as required by federal law, appointed by the governor. In making these appointments, to the maximum extent feasible, the governor shall give consideration to providing overlapping membership with the membership of the state job training coordinating council, and the governor shall give consideration to individuals with expertise and experience in adult basic education.

(3) The work force training and education coordinating board shall monitor the need for the council as described in subsection (1) of this section, and, if that need no longer exists, propose legislation to terminate the council. [1991 c 238 § 19.]

28B.50.256 Facilities shared by vocational-technical institute programs and K-12 programs. If, before September 1, 1991, the use of a single building facility is being shared between an existing vocational-technical institute program and a K-12 program, the respective boards shall continue to share the use of the facility until such time as it is convenient to remove one of the two programs to another facility. The determination of convenience shall be based solely upon the best interests of the students involved.

If a vocational-technical institute district board and a common school district board are sharing the use of a single facility, the program occupying the majority of the space of such facility, exclusive of space utilized equally by both, shall determine which board will be charged with the administration and control of such facility. The determination of occupancy shall be based upon the space occupied as of January 1, 1990.

The board charged with the administration and control of such facility may share expenses with the other board for the use of the facility.

In the event that the two boards are unable to agree upon which board is to administer and control the facility or upon a fair share of expenses for the use of the facility, the governor shall appoint an arbitrator to settle the matter. The decisions of the arbitrator shall be final and binding upon both boards. The expenses of the arbitration shall be divided equally by each board. [1991 c 238 § 132.]

28B.50.258 Training in timber impact areas. To the extent that funds are specifically appropriated therefor, the *state board for community college education shall provide training and retraining in timber impact areas as follows:

(1) Disbursement of funds to individual community colleges for supplemental slots in cases where enrollment demand exceeds allocation;

(2) Pilot projects for innovative approaches to literacy and employment training. Pilot projects may include, but are not limited to:

(a) Training for cranberry industry research, coordinated by the Washington State University coastal research unit, Long Beach;

(b) Training through Grays Harbor Community College for dislocated forest products workers to fill positions as safety training and vessel inspectors. They shall contract with those organizations deemed appropriate to carry out this program;

(c) Training through Skagit Valley Community College for dislocated forest products workers in natural resources technical programs in stream enhancement, including waters upstream or downstream as well as adjacent to state lands; water quality enhancement; irrigation repair; and the building of shellfish beds;

(d) Training for agricultural development, diversification, marketing, and processing programs in timber impact areas.

Nothing in subsection (2) of this section shall be construed to provide priority for the projects listed in subsection (2) of this section.

For the purposes of this section, the number of full-time equivalent students to be served during any biennium shall be determined by the applicable omnibus appropriations act and shall be in addition to the community college enrollment level funded by the applicable omnibus appropriations act. [1991 c 315 § 16.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Intent—1991 c 315: See note following RCW 50.12.270.

Severability—Conflict with federal requirements—Effective date—1991 c 315: See RCW 50.70.900 through 50.70.902.

28B.50.259 Program for dislocated forest products workers—Waiver from tuition and fees. (1) The state board for community and technical colleges shall administer a program designed to provide higher education opportunities to dislocated forest products workers and their unemployed spouses who are enrolled in a community or technical college for ten or more credit hours per quarter. In administering the program, the college board shall have the following powers and duties:

(a) With the assistance of an advisory committee, design a procedure for selecting dislocated forest products workers to participate in the program;

(b) Allocate funding to community and technical colleges attended by participants;

(c) Monitor the program and report on participants' progress and outcomes; and

(d) Report to the legislature by December 1, 1993, on the status of the program.

(2) Unemployed spouses of eligible dislocated forest products workers may participate in the program, but tuition and fees may be waived under the program only for the worker or the spouse and not both.

(3) Subject to the limitations of RCW 28B.15.910, the governing boards of the community and technical colleges may waive all or a portion of tuition and fees for program

participants, for a maximum of six quarters within a two-year period.

(4) During any biennium, the number of full-time equivalent students to be served in this program shall be determined by the applicable omnibus appropriations act, and shall be in addition to the community college enrollment level funded by the applicable omnibus appropriations act.

(5) Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act. [1992 c 231 § 29; 1991 c 315 § 17.]

Effective date—1992 c 231: See note following RCW 28B.10.016.

Intent—1991 c 315: See note following RCW 50.12.270.

Severability—Conflict with federal requirements—Effective date—1991 c 315: See RCW 50.70.900 through 50.70.902.

28B.50.301 Title to or all interest in real estate, choses in action and assets obtained for vocational-technical institute purposes by school districts—Vest in or assigned to district board—Exceptions. Title to or all interest in real estate, choses in action and all other assets, and liabilities including court claims, including but not limited to assignable contracts, cash, deposits in county funds (including any interest or premiums thereon), equipment, buildings, facilities, and appurtenances thereto held as of September 1, 1991, by or for a school district and obtained identifiably with federal, state, or local funds appropriated for vocational-technical institutes [institute] purposes or postsecondary vocational educational purposes, or used or obtained with funds budgeted for postsecondary vocational educational purposes, or used or obtained primarily for vocational-technical institute educational purposes, shall, on the date on which the first board of trustees of each district takes office, vest in or be assigned to the district board. Cash, funds, accounts, or other deposits obtained or raised by a school district to pay for indebtedness, bonded or otherwise, contracted on or before September 1, 1991, for vocational-technical institute purposes shall remain with and continue to be, after February 2, 1992, an asset of the school district. Any option acquired by the school district to purchase real property which in the judgment of the school district will be used in the common school program may remain with the school district notwithstanding that such option was obtained in consideration of the purchase by such school district of other property for vocational-technical institute purposes. Unexpended funds of a common school district derived from the sale, before September 1, 1991, of bonds authorized for any purpose which includes vocational-technical institute purposes and not committed for any existing construction contract, shall remain with and continue to be an asset of such common school district, unless within thirty days after said date such common school district determines to transfer such funds to the board of trustees. [1991 c 238 § 115.]

28B.50.302 Title to or all interest in real estate, choses in action and assets obtained for vocational-technical institute purposes by school districts—Vest in or assigned to state board for community and technical colleges—Exceptions. Title to or all interest in real estate,

choses in action, and all other assets and liabilities, including court claims, including but not limited to assignable contracts, cash, deposits in county funds (including any interest or premiums thereon), equipment, buildings, facilities, and appurtenances thereto held as of September 1, 1991, by or for a school district and obtained identifiably with federal, state, or local funds appropriated for vocational-technical institute purposes or postsecondary vocational educational purposes, or used or obtained with funds budgeted for vocational-technical institute purposes or postsecondary vocational education purposes, or used or obtained primarily for vocational education purposes, and all liabilities including, but not limited to court claims incurred on behalf of a vocational-technical institute by a school district, shall, on the date on which the first board of trustees of each college district takes office, vest in or be assigned to the state board for community and technical colleges. Grounds that have been used primarily as a playground for children shall continue to be made available for such use.

Cash, funds, accounts, or other deposits obtained or raised by a school district to pay for indebtedness, bonded or otherwise, contracted on or before September 1, 1991, for vocational-technical institute purposes shall remain with and continue to be, after September 1, 1991, an asset of the school district.

Any option acquired by the school district to purchase real property which in the judgment of the school district will be used in the common school program may remain with the school district notwithstanding that such option was obtained in consideration of the purchase by such school district of other property for vocational-technical institute purposes.

Unexpended funds of a common school district derived from the sale of bonds issued for vocational-technical institute capital purposes and not committed for any existing construction contract, shall be transferred to the college district of which the institute is a part for application to such projects.

For the purposes of this section and to facilitate the process of allocating the assets, the board of directors of each school district in which a vocational-technical institute is located, and the director of each vocational-technical institute, shall each submit to the state board of education, and the state board for community and technical colleges within ninety days of September 1, 1991, an inventory listing all real estate, personal property, choses in action, and other assets, held by a school district which, under the criteria of this section, will become the assets of the state board for community and technical colleges.

However, assets used primarily for vocational-technical institute purposes shall include, but not be limited to, all assets currently held by school districts which have been used on an average of at least seventy-five percent of the time during the 1989-90 school year, or if acquired subsequent to July 1, 1990, since its time of acquisition, for vocational-technical institute purposes, except that facilities used during school construction and remodeling periods to house vocational-technical institute programs temporarily and facilities that were vacated by the vocational-technical institute and returned to the school district during 1990-91 are not subject to this requirement.

The ultimate decision and approval with respect to the allocation and dispositions of the assets and liabilities including court claims under this section shall be made by a task force appointed by the governor in consultation with the superintendent of public instruction and the state board for community and technical colleges. Any issues remaining in dispute shall be settled by the governor or the governor's designee. The decision of the governor, the governor's designee, or the task force may be appealed within sixty days after such decision is issued by appealing to the district court of Thurston county. The decision of the superior court may be appealed to the supreme court of the state in accordance with the provision[s] of the administrative procedure act, chapter 34.05 RCW. [1991 c 238 § 131.]

28B.50.305 Seattle Vocational Institute—Findings.

The legislature finds that a vocational institute in the central area of the city of Seattle provides civic, social, and economic benefits to the people of the state of Washington. Economic development is enhanced by increasing the number of skilled individuals who enter the labor market and social welfare costs are reduced by the training of individuals lacking marketable skills. The students at the institute are historically economically disadvantaged, and include racial and ethnic minorities, recent immigrants, single-parent heads of households, and persons who are dislocated workers or without specific occupational skills. The institute presents a unique opportunity for business, labor, and community-based organizations, and educators to work together to provide effective vocational-technical training to the economically disadvantaged of urban Seattle, and to serve as a national model of such cooperation. Moreover, a trained work force is a major factor in attracting new employers, and with greater minority participation in the work force, the institute is uniquely located to deliver training and education to the individuals employers must increasingly turn to for their future workers. [1991 c 238 § 93.]

Contingency—1991 c 238 §§ 93-101, 156: "If specific funding for the purposes of this act, referencing this act by bill number, is not provided for sections 93 through 101 and 156 of this act by June 30, 1993, in the omnibus appropriations act, sections 93 through 101 and 156 of this act shall be null and void." [1991 c 238 § 165.]

28B.50.306 Seattle Vocational Institute—Mission—Advisory committee to advise. The mission of the institute shall be to provide occupational, basic skills, and literacy education opportunities to economically disadvantaged populations in urban areas of the college district it serves. The mission shall be achieved primarily through open-entry, open-exit, short-term, competency-based basic skill, and job training programs targeted primarily to adults. The board of trustees of the sixth college district shall appoint a nine-member advisory committee consisting of equal representation from business, labor, and community representatives to provide advice and counsel to the administration of the institute and the district administration. [1991 c 238 § 100.]

Contingency—1991 c 238 §§ 93-101, 156: See note following RCW 28B.50.305.

28B.50.307 Seattle Vocational Institute—Funding. Funding for the institute shall be included in a separate allocation to the sixth college district, and funds allocated for

the institute shall be used only for purposes of the institute. [1991 c 238 § 101.]

Contingency—1991 c 238 §§ 93-101, 156: See note following RCW 28B.50.305.

28B.50.310 Community college fees. See chapter 28B.15 RCW.

28B.50.311 Community college fees—Waiver of tuition and fees for long-term unemployed or underemployed persons—Conditions—Rules. See RCW 28B.15.522.

28B.50.312 Resident tuition for participants in community college international student exchange program. See RCW 28B.15.526.

28B.50.313 Waiver of the nonresident portion of tuition and fees for students of foreign nations. See RCW 28B.15.527.

28B.50.320 Fees and other income—Deposit—Disbursement. All operating fees, services and activities fees, and all other income which the trustees are authorized to impose shall be deposited as the trustees may direct unless otherwise provided by law. Such sums of money shall be subject to the budgetary and audit provisions of law applicable to state agencies. The depository selected by the trustees shall conform to the collateral requirements required for deposit of other state funds.

Disbursement shall be made by check signed by the president of the college or the president's designee appointed in writing, and such other person as may be designated by the board of trustees of the college district. Each person authorized to sign as provided above, shall execute a surety bond as provided in RCW 43.17.100. Said bond or bonds shall be filed in the office of the secretary of state. [1991 c 238 § 47; 1971 ex.s. c 279 § 17; 1970 ex.s. c 59 § 4; 1969 ex.s. c 238 § 5; 1969 ex.s. c 223 § 28B.50.320. Prior: 1967 ex.s. c 8 § 32.]

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

Severability—1970 ex.s. c 59: See note following RCW 28B.15.520.

28B.50.327 Collection of student tuition and fees—Seattle Vocational Institute. Notwithstanding the provisions of chapter 28B.15 RCW, technical colleges and the Seattle Vocational Institute may continue to collect student tuition and fees per their standard operating procedures in effect on September 1, 1991. The applicability of existing community college rules and statutes pursuant to chapter 28B.15 RCW regarding tuition and fees shall be determined by the state board for community and technical colleges within two years of September 1, 1991. [1991 c 238 § 84.]

28B.50.328 Waivers of tuition and fees—Scholarships—Employment of instructional staff and faculty—Seattle Vocational Institute. The district may provide for waivers of tuition and fees and provide scholarships for students at the institute. The district may negotiate

with applicable public or private service providers to conduct the instructional activities of the institute. The district may employ instructional staff or faculty. The district may also contract with private individuals for instructional services. Until at least July 1, 1993, all faculty and staff serve at the pleasure of the district. In order to allow the district flexibility in its personnel policies with the institute, the district and the institute, with reference to employees of the institute employed during an initial two-year period until July 1, 1993, are exempt from chapters 28B.16, 28B.52 (relating to collective bargaining), 41.04, 41.05, 41.06, and 41.40 RCW; from RCW 43.01.040 through 43.01.044; and from RCW 28B.50.551 and 28B.50.850 through 28B.50.875 (relating to faculty tenure). [1991 c 238 § 103.]

28B.50.330 Construction, reconstruction, equipping and demolition of community and technical college facilities and acquisition of property—Financing by revenue bonds—Bid procedure. The boards of trustees of college districts are empowered in accordance with the provisions of this chapter to provide for the construction, reconstruction, erection, equipping, demolition, and major alterations of buildings and other capital assets, and the acquisition of sites, rights-of-way, easements, improvements, or appurtenances for the use of the aforementioned colleges as authorized by the college board in accordance with RCW 28B.50.140; to be financed by bonds payable out of special funds from revenues hereafter derived from income received from such facilities, gifts, bequests, or grants, and such additional funds as the legislature may provide, and payable out of a bond retirement fund to be established by the respective district boards in accordance with rules and regulations of the state board. With respect to building, improvements, or repairs, or other work, where the estimated cost exceeds fifteen thousand dollars, complete plans and specifications for such work shall be prepared and such work shall be prepared and such work shall be put out for public bids and the contract shall be awarded to the lowest responsible bidder if in accordance with the bid specifications: PROVIDED, That any project regardless of dollar amount may be put to public bid.

Where the estimated cost to any college of any building, improvements, or repairs, or other work, is less than five thousand dollars, the publication requirements of RCW 39.04.020 and 39.04.070 shall be inapplicable. [1991 c 238 § 48; 1979 ex.s. c 12 § 2; 1969 ex.s. c 223 § 28B.50.330. Prior: 1967 ex.s. c 8 § 33. Formerly RCW 28.85.330.]

Severability—1979 ex.s. c 12: See note following RCW 28B.10.350.

28B.50.340 Construction, reconstruction, equipping and demolition of community and technical college facilities and acquisition of property—Financing by bonds secured by pledge of building fees, grants. In addition to the powers conferred under RCW 28B.50.090, the college board is authorized and shall have the power:

(1) To permit the district boards of trustees to contract for the construction, reconstruction, erection, equipping, maintenance, demolition and major alterations of buildings and other capital assets, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances of the college as approved by the state board.

(2) To finance the same by the issuance of bonds secured by the pledge of up to one hundred percent of the building fees.

(3) Without limitation of the foregoing, to accept grants from the United States government, or any federal or state agency or instrumentality, or private corporation, association, or person to aid in defraying the costs of any such projects.

(4) To retain bond counsel and professional bond consultants to aid it in issuing bonds pursuant to RCW 28B.50.340 through 28B.50.400. [1991 c 238 § 49; 1985 c 390 § 54; 1971 ex.s. c 279 § 18; 1970 ex.s. c 15 § 18. Prior: 1969 ex.s. c 261 § 26; 1969 ex.s. c 238 § 6; 1969 ex.s. c 223 § 28B.50.340; prior: 1967 ex.s. c 8 § 34.]

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

Severability—1970 ex.s. c 15: See note following RCW 28A.230.160.

28B.50.350 Construction, reconstruction, equipping and demolition of community and technical college facilities and acquisition of property—Bonds—Requirements. For the purpose of financing the cost of any projects, the college board is hereby authorized to adopt the resolution or resolutions and prepare all other documents necessary for the issuance, sale and delivery of the bonds or any part thereof at such time or times as it shall deem necessary and advisable. Said bonds:

(1) Shall not constitute:

(a) An obligation, either general or special, of the state; or

(b) A general obligation of the college or of the college board;

(2) Shall be:

(a) Either registered or in coupon form; and

(b) Issued in denominations of not less than one hundred dollars; and

(c) Fully negotiable instruments under the laws of this state; and

(d) Signed on behalf of the college board with the manual or facsimile signature of the chairman of the board, attested by the secretary of the board, have the seal of the college board impressed thereon or a facsimile of such seal printed or lithographed in the bottom border thereof, and the coupons attached thereto shall be signed with the facsimile signatures of such chairman and the secretary;

(3) Shall state:

(a) The date of issue; and

(b) The series of the issue and be consecutively numbered within the series; and

(c) That the bond is payable both principal and interest solely out of the bond retirement fund created for retirement thereof;

(4) Each series of bonds shall bear interest, payable either annually or semiannually, as the board may determine;

(5) Shall be payable both principal and interest out of the bond retirement fund;

(6) Shall be payable at such times over a period of not to exceed forty years from date of issuance, at such place or places, and with such reserved rights of prior redemption, as the board may prescribe;

(7) Shall be sold in such manner and at such price as the board may prescribe;

(8) Shall be issued under and subject to such terms, conditions and covenants providing for the payment of the principal thereof and interest thereon and such other terms, conditions, covenants and protective provisions safeguarding such payment, not inconsistent with RCW 28B.50.330 through 28B.50.400, and as found to be necessary by the board for the most advantageous sale thereof, which may include but not be limited to:

(a) A covenant that a reserve account shall be created in the bond retirement fund to secure the payment of the principal of and interest on all bonds issued and a provision made that certain amounts be set aside and maintained therein;

(b) A covenant that sufficient moneys may be transferred from the capital projects account of the college board issuing the bonds to the bond retirement fund of the college board when ordered by the board in the event there is ever an insufficient amount of money in the bond retirement fund to pay any installment of interest or principal and interest coming due on the bonds or any of them;

(c) A covenant fixing conditions under which bonds on a parity with any bonds outstanding may be issued.

The proceeds of the sale of all bonds, exclusive of accrued interest which shall be deposited in the bond retirement fund, shall be deposited in the state treasury to the credit of the capital projects account of the college board and shall be used solely for paying the costs of the projects, the costs of bond counsel and professional bond consultants incurred in issuing the bonds, and for the purposes set forth in subsection (8)(b) of this section;

(9) Shall constitute a prior lien and charge against the building fees of the community and technical colleges. [1991 c 238 § 50; 1985 c 390 § 55; 1971 ex.s. c 279 § 19; 1971 c 8 § 2; 1970 ex.s. c 59 § 2; 1970 ex.s. c 56 § 32; 1970 ex.s. c 15 § 19; 1969 ex.s. c 261 § 27; 1969 ex.s. c 232 § 106; 1969 ex.s. c 223 § 28B.50.350. Prior: 1967 ex.s. c 8 § 35.]

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

Severability—1970 ex.s. c 59: See note following RCW 28B.15.520.

Purpose—1970 ex.s. c 56: See note following RCW 39.52.020.

Severability—1970 ex.s. c 15: See note following RCW 28A.230.160.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.52.020.

28B.50.360 Construction, reconstruction, equipping and demolition of community and technical college facilities and acquisition of property—Community and technical college capital projects account—Disposition of building fees. Within thirty-five days from the date of start of each quarter all building fees of each such community and technical college shall be paid into the state treasury, and shall be credited as follows:

(1) On or before June 30th of each year the college board if issuing bonds payable out of building fees shall certify to the state treasurer the amounts required in the ensuing twelve-month period to pay and secure the payment of the principal of and interest on such bonds. The state treasurer shall thereupon deposit the amounts so certified in the community and technical college capital projects account. Such amounts of the funds deposited in the community and

technical college capital projects account as are necessary to pay and secure the payment of the principal of and interest on the building bonds issued by the college board as authorized by this chapter shall be exclusively devoted to that purpose. If in any twelve-month period it shall appear that the amount certified by the college board is insufficient to pay and secure the payment of the principal of and interest on the outstanding building bonds, the state treasurer shall notify the college board and such board shall adjust its certificate so that all requirements of moneys to pay and secure the payment of the principal and interest on all such bonds then outstanding shall be fully met at all times.

(2) The community and technical college capital projects account is hereby created in the state treasury. The sums deposited in the capital projects account shall be appropriated and expended exclusively to pay and secure the payment of the principal of and interest on bonds payable out of the building fees and for the construction, reconstruction, erection, equipping, maintenance, demolition and major alteration of buildings and other capital assets owned by the state board for community and technical colleges in the name of the state of Washington, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances in relation thereto, and for the payment of principal of and interest on any bonds issued for such purposes.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, at such time as all outstanding building bonds of the college board payable from the community and technical college capital projects account have been paid, redeemed, and retired, or at such time as ample provision has been made by the state for full payment, from some source other than the community and technical college capital projects account, of the principal of and the interest on and call premium, if applicable, of such bonds as they mature and/or upon their call prior to their maturity, through refunding or otherwise, that portion of all building fees of the community and technical colleges equal to the amount required to pay yearly debt service on any general obligation bonds issued by the state in accordance with Article VIII, section 1, Washington state Constitution, for community and technical college purposes, shall be paid into the general fund of the state treasury. The state finance committee shall determine whether ample provision has been made for payment of such bonds payable from the community and technical college capital projects account and shall determine the amount required to pay yearly debt service on such general obligation bonds of the state. Nothing in this subsection shall be construed as obligating the legislature or the state to provide for payment of such college building bonds from some source other than the community and technical college capital projects account or as pledging the general credit of the state to the payment of such bonds. [1991 sp.s. c 13 §§ 47, 48; 1991 c 238 § 51. Prior: 1985 c 390 § 56; 1985 c 57 § 16; 1974 ex.s. c 112 § 4; 1971 ex.s. c 279 § 20; 1970 ex.s. c 15 § 20; prior: 1969 ex.s. c 261 § 28; 1969 ex.s. c 238 § 7; 1969 ex.s. c 223 § 28B.50.360; prior: 1967 ex.s. c 8 § 36.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

Severability—1974 ex.s. c 112: See note following RCW 28B.50.403.

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

Severability—1970 ex.s. c 15: See note following RCW 28A.230.160.

Transfer of moneys in community and technical college bond retirement fund to state general fund: RCW 28B.50.401 and 28B.50.402.

28B.50.370 Construction, reconstruction, equipping and demolition of community and technical college facilities and acquisition of property—Bonds—Sources for payment of principal and interest on—Funds credited to bond retirement fund—Pledge to collect building fees. For the purpose of paying and securing the payment of the principal of and interest on the bonds as the same shall become due, there shall be paid into the state treasury and credited to the bond retirement fund of the college board, the following:

(1) Amounts derived from building fees as are necessary to pay the principal of and interest on the bonds and to secure the same;

(2) Any grants which may be made, or may become available for the purpose of furthering the construction of any authorized projects, or for the repayment of the costs thereof;

(3) Such additional funds as the legislature may provide. Said bond retirement fund shall be kept segregated from all moneys in the state treasury and shall, while any of such bonds or any interest thereon remains unpaid, be available solely for the payment thereof. As a part of the contract of sale of such bonds, the college board shall charge and collect building fees as established by this chapter and deposit such fees in the bond retirement fund in amounts which will be sufficient to pay and secure the payment of the principal of, and interest on all such bonds outstanding. [1991 c 238 § 52; 1985 c 390 § 57; 1971 ex.s. c 279 § 21; 1969 ex.s. c 238 § 8; 1969 ex.s. c 223 § 28B.50.370. Prior: 1967 ex.s. c 8 § 37.]

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

Transfer of moneys in community and technical college bond retirement fund to state general fund: RCW 28B.50.401 and 28B.50.402.

28B.50.380 Construction, reconstruction, equipping and demolition of community college facilities and acquisition of property—Bonds—Additional powers incident to bond authorization. In accordance with the provisions of RCW 28B.50.340 the college board is hereby empowered:

(1) To reserve the right to issue bonds later on a parity with any bonds being issued;

(2) To authorize the investing of moneys in the bond retirement fund and any reserve account therein;

(3) To authorize the transfer of money from the college board's capital projects account to the bond retirement fund when necessary to prevent a default in the payments required to be made; and

(4) To create a reserve account or accounts in the bond retirement fund to secure the payment of the principal of and interest on any bonds. [1969 ex.s. c 223 § 28B.50.380. Prior: 1967 ex.s. c 8 § 38. Formerly RCW 28.85.380.]

28B.50.390 Construction, reconstruction, equipping and demolition of community college facilities and acquisition of property—Refunding bonds—Authorized—Form, term, issuance, etc.—Exchange or sale. The college board is hereby empowered to issue refunding bonds to provide funds to refund any or all outstanding bonds payable from the bond retirement fund and to pay any redemption premium payable on such outstanding bonds being refunded. Such refunding bonds may be issued in the manner and on terms and conditions and with the covenants permitted by RCW 28B.50.330 through 28B.50.400 for the issuance of bonds. The refunding bonds shall be payable out of the bond retirement fund and shall not constitute an obligation either general or special, of the state or a general obligation of the college board. The board may exchange the refunding bonds at par for the bonds which are being refunded or may sell them in such manner, at such price and at such rate or rates of interest as it deems for the best interest of the college. [1970 ex.s. c 56 § 33; 1969 ex.s. c 232 § 107; 1969 ex.s. c 223 § 28B.50.390. Prior: 1967 ex.s. c 8 § 39.]

Purpose—1970 ex.s. c 56: See note following RCW 39.52.020.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.52.020.

28B.50.400 Construction, reconstruction, equipping and demolition of community college facilities and acquisition of property—Bonds as limited obligation bonds—Additional means to pay principal and interest on. The bonds authorized to be issued pursuant to the provisions of RCW 28B.50.330 through 28B.50.400 shall not be general obligations of the state of Washington, but shall be limited obligation bonds payable only from the special funds created for their payment. The legislature may specify additional means for providing funds for the payment of principal and interest of said bonds. RCW 28B.50.330 through 28B.50.400 shall not be deemed to provide an exclusive method for such payment. The power given to the legislature by this section to provide for additional means for raising money is permissive, and shall not in any way be construed as a pledge of the general credit of the state of Washington. [1969 ex.s. c 223 § 28B.50.400. Prior: 1967 ex.s. c 8 § 40. Formerly RCW 28.85.400.]

28B.50.401 Transfer of moneys in community college bond retirement fund to state general fund—Purpose. The state finance committee has heretofore refunded, pursuant to RCW 28B.50.403 through 28B.50.407, all of the outstanding building bonds of the community college board payable from the community college bond retirement fund. By reason of such refunding said bonds are no longer deemed to be outstanding and moneys presently on deposit in said bond retirement fund are no longer needed to pay and secure the payment of such refunded bonds. [1985 c 390 § 58; 1977 ex.s. c 223 § 1.]

Severability—1977 ex.s. c 223: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 223 § 4.]

28B.50.402 Transfer of moneys in community and technical college bond retirement fund to state general

fund—Exception. Notwithstanding anything to the contrary contained in RCW 28B.50.360 (1) and (2) and in RCW 28B.50.370, all moneys on deposit on or before June 30, 1977, in the community and technical college bond retirement fund, shall be transferred by the state treasurer to the state general fund, except for those moneys appropriated by section 17, chapter 1, Laws of 1977. [1991 c 238 § 53; 1977 ex.s. c 223 § 2.]

Severability—1977 ex.s. c 223: See note following RCW 28B.50.401.

28B.50.403 Refunding bonds—Authorized—Limitations. The state of Washington is hereby authorized to issue state general obligation bonds for the purpose of refunding any outstanding building, limited obligation bonds of the college board issued pursuant to this chapter in an amount not exceeding 1.05 times the amount which, taking into account amounts to be earned from the investment of the proceeds of the issue, is required to pay the principal thereof, interest thereon, any premium payable with respect thereto, and the costs incurred in accomplishing such refunding: PROVIDED, That any proceeds of the refunding bonds in excess of those required to accomplish such refunding, or any obligations acquired with such excess proceeds, shall be applied exclusively for the payment of principal, interest, or call premiums with respect to such refunding obligations. In no event shall the amount of such refunding bonds authorized in this section exceed seventy-five million dollars. [1985 c 390 § 59; 1974 ex.s. c 112 § 1.]

Severability—1974 ex.s. c 112: "If any provision of this amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 112 § 9.]

28B.50.404 Refunding bonds—Issuance—Security. Subject to the specific provisions of RCW 28B.50.360 and 28B.50.403 through 28B.50.407, such general obligation refunding bonds shall be issued and the refunding of said community and technical college building bonds shall be carried out pursuant to chapters 39.42 and 39.53 RCW as now or hereafter amended. The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise of the state to pay the principal thereof and interest thereon when due. [1991 c 238 § 54; 1985 c 390 § 60; 1974 ex.s. c 112 § 2.]

Severability—1974 ex.s. c 112: See note following RCW 28B.50.403.

28B.50.405 Refunding bonds—Community and technical college refunding bond retirement fund of 1974. There is hereby created in the state treasury the community and technical college refunding bond retirement fund of 1974, which fund shall be exclusively devoted to the payment of the principal of and interest on the refunding bonds authorized by RCW 28B.50.360 and 28B.50.403 through 28B.50.407.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to pay the principal of and interest on such bonds. On July 1st of each year the state treasurer shall deposit such amount in the refunding

bond retirement fund of 1974 from any general state revenues received in the state treasury. [1991 c 238 § 55; 1974 ex.s. c 112 § 3.]

Severability—1974 ex.s. c 112: See note following RCW 28B.50.403.

28B.50.406 Refunding bonds—Legislature may provide additional means of payments. The legislature may provide additional means for raising moneys for the payment of the interest and principal of the bonds authorized in RCW 28B.50.360 and 28B.50.403 through 28B.50.407 and RCW 28B.50.360 and 28B.50.403 through 28B.50.407 shall not be deemed to provide an exclusive method for such payment. [1974 ex.s. c 112 § 5.]

Severability—1974 ex.s. c 112: See note following RCW 28B.50.403.

28B.50.407 Refunding bonds—Bonds legal investment for public funds. The bonds authorized in RCW 28B.50.360 and 28B.50.403 through 28B.50.407 shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1974 ex.s. c 112 § 6.]

Severability—1974 ex.s. c 112: See note following RCW 28B.50.403.

28B.50.409 Bonds—Committee advice and consent prerequisite to issuance. All bonds issued after February 16, 1974 by the college board or any board of trustees for any college district under provisions of chapter 28B.50 RCW, as now or hereafter amended, shall be issued by such boards only upon the prior advice and consent of the state finance committee. [1991 c 238 § 56; 1974 ex.s. c 112 § 7.]

Severability—1974 ex.s. c 112: See note following RCW 28B.50.403.

28B.50.410 Vocational rehabilitation services for handicapped persons—Definitions. See RCW 74.29.010.

28B.50.420 Vocational rehabilitation services for handicapped persons—Powers and duties of state agency. See RCW 74.29.020.

28B.50.430 Vocational rehabilitation services for handicapped persons—Acceptance of federal aid. See RCW 74.29.050 and 74.29.055.

28B.50.440 Construction of chapter when part thereof in conflict with federal requirements which are condition precedent to allocation of federal funds. If any part of this chapter shall be found to be in conflict with federal requirements which are a condition precedent to the allocation of federal funds to the state, such conflicting part of this chapter is hereby declared to be inoperative solely to the extent of such conflict, and such findings or determination shall not affect the operation of the remainder of this chapter. [1969 ex.s. c 223 § 28B.50.440. Prior: 1967 ex.s. c 8 § 44. Formerly RCW 28.85.440.]

Federal funds, receipt of authorized: RCW 28B.50.520.

28B.50.450 Vocational rehabilitation services to be made available to state and public agencies. See RCW 74.29.037.

28B.50.455 Vocational education of individuals with disabilities—Procedures. Each technical college shall have written procedures which include provisions for the vocational education of individuals with disabilities. These written procedures shall include a plan to provide services to individuals with disabilities, a written plan of how the technical college will comply with relevant state and federal requirements for providing vocational education to individuals with disabilities, a written plan of how the technical college will provide on-site appropriate instructional support staff in compliance with P.L. 94-142, and as since amended, and section 504 of the rehabilitation act of 1973, and as thereafter amended. [1991 c 238 § 158.]

28B.50.460 Purchase of vocational rehabilitation services for handicapped persons—Procedure—Register of eligible nonprofit organizations—Rules. See RCW 74.29.080.

28B.50.470 State civil service law—Definitions. See RCW 41.06.020.

28B.50.480 State civil service law—Exemptions. See RCW 41.06.070.

28B.50.482 Accumulated sick leave—Transferred employees of vocational-technical institutes. Sick leave accumulated by employees of vocational-technical institutes shall be transferred to the college districts without loss of time subject to the provisions of RCW 28B.50.551 and the further provisions of any negotiated agreements then in force. [1991 c 238 § 136.]

28B.50.484 Health care service contracts—Transferred employees of vocational-technical institutes. The state employees' benefit board shall adopt rules to preclude any preexisting conditions or limitations in existing health care service contracts for school district employees at vocational-technical institutes transferred to the state board for community and technical colleges. The board shall also provide for the disposition of any dividends or refundable reserves in the school district's health care service contracts applicable to vocational-technical institute employees. [1991 c 238 § 137.]

28B.50.490 Fiscal management—Powers and duties of officers and agencies. See RCW 43.88.160.

28B.50.500 General provisions for institutions of higher education. See chapter 28B.10 RCW.

28B.50.510 State purchasing and material control, community college purchases. See RCW 43.19.190.

28B.50.520 Federal funds, receipt of authorized.

The college board or any board of trustees is authorized to receive federal funds made available for the assistance of community and technical colleges, and providing physical facilities, maintenance or operation of schools, or for any educational purposes, according to the provisions of the acts of congress making such funds available. [1991 c 238 § 57; 1969 ex.s. c 223 § 28B.50.520. Prior: 1967 ex.s. c 8 § 52. Formerly RCW 28.85.520.]

Construction of chapter when part thereof in conflict with federal requirements which are condition precedent to allocation of federal funds: RCW 28B.50.440.

28B.50.522 Office for adult literacy. The college board personnel administering state and federally funded programs for adult basic skills and literacy education shall be known as the state office for adult literacy. [1991 c 238 § 92.]

28B.50.528 Contracts with adjacent college district for administrative services. If a technical college is created after September 1, 1991, that college may contract with an adjacent college district for administrative services until such time that an existing or new college district may assume jurisdiction over the college. [1991 c 238 § 139.]

28B.50.530 Agreements for use of services or facilities between district boards of trustees and school boards. The district boards of trustees and the common school boards are hereby authorized to enter into agreements for the use by either of the other's services, facilities or equipment and for the presentation of courses of either for students of the other where such agreements are deemed to be in the best interests of the education of the students involved. [1969 ex.s. c 223 § 28B.50.530. Prior: 1967 ex.s. c 8 § 53. Formerly RCW 28.85.530.]

Community education programs: RCW 28A.620.020.

28B.50.533 Contracts with common school districts for occupational and academic programs for high school students—Enrollment opportunities—Interlocal agreements. Community and technical colleges may contract with local common school districts to provide occupational and academic programs for high school students. Common school districts whose students currently attend vocational-technical institutes shall not suffer loss of opportunity to continue to enroll their students at technical colleges.

For the purposes of this section, "opportunity to enroll" includes, but is not limited to, the opportunity of common school districts to enroll the same number of high school students enrolled at each vocational-technical institute during the period July 1, 1989, through June 30, 1990, and the opportunity for common school districts to increase enrollments of high school students at each technical college in proportion to annual increases in enrollment within the school districts participating on September 1, 1991. Technical colleges shall offer programs which are accessible to high school students to at least the extent that existed during the period July 1, 1989, through June 30, 1990, and to the extent necessary to accommodate proportional annual growth in enrollments of high school students within school districts

participating on September 1, 1991. Accommodating such annual increases in enrollment or program offerings shall be the first priority within technical colleges subject to any enrollment or budgetary restrictions. Technical colleges shall not charge tuition or student services and activities fees to high school students enrolled in the college.

Technical colleges may enter into interlocal agreements with local school districts to provide instruction in courses required for high school graduation, basic skills, and literacy training for students enrolled in technical college programs. [1991 c 238 § 82.]

28B.50.535 Community or technical college may issue high school diploma or certificate, limitation. A community or technical college may issue a high school diploma or certificate, subject to rules and regulations promulgated by the superintendent of public instruction and the state board of education. [1991 c 238 § 58; 1969 ex.s. c 261 § 30.]

Severability—1969 ex.s. c 261: See note following RCW 28B.50.020.

28B.50.551 Leave provisions generally. The board of trustees of each college district shall adopt for each community and technical 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 college districts and community and technical 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 college districts or community and technical colleges shall not be compensable;

(5) Accumulated leave for illness, injury, bereavement and emergencies under this section shall be transferred from one college district or community and technical college to another, to the college board, 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;

(6) Leave accumulated by a person in a college district or community and technical college prior to leaving that district or college may, under the policy of the board of trustees, be granted to such person when he or she returns to the employment of that district or college; and

(7) Employees of the Seattle Vocational Institute are exempt from this section until July 1, 1993. [1991 c 238 § 59; 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.10.510.

Severability—1969 ex.s. c 283: See note following RCW 28A.150.050.

28B.50.600 School district bonds—Redemption of by school district to continue though facility under control of college district board. Whenever a common school board has contracted to redeem general obligation bonds used for the construction or acquisition of facilities which are now to be under the administration, control and occupancy of the college district board, the common school board shall continue to redeem the bonds in accordance with the provisions of the bonds. [1991 c 238 § 60; 1969 ex.s. c 223 § 28B.50.600. Prior: 1967 ex.s. c 8 § 60. Formerly RCW 28.85.600.]

28B.50.601 School district bonds—Redemption—Facilities under administration of college district board. If a school board has contracted to redeem general obligation bonds used for the construction or acquisition of facilities which are now to be under the administration, control, and occupancy of the college district board, the school board shall continue to redeem the bonds in accordance with the provisions of the bonds. [1991 c 238 § 138.]

28B.50.740 School district bonds—Those issued for community and technical college facilities not considered indebtedness under statutory limitations on. Notwithstanding any other statutory provision relating to indebtedness of school districts, bonds heretofore issued by any common school district for the purpose of providing funds for community and technical college facilities shall not be considered as indebtedness in determining the maximum allowable indebtedness under any statutory limitation of indebtedness when the sum of all indebtedness therein does not exceed the maximum constitutional allowable indebtedness applied to the value of the taxable property contained in such school district: PROVIDED, That nothing contained herein shall be construed to affect the distribution of state funds under any applicable distribution formula. [1991 c 238 § 61; 1969 ex.s. c 223 § 28B.50.740. Prior: 1967 ex.s. c 8 § 74. Formerly RCW 28.85.740.]

Forty mill limit: State Constitution Art. 7 § 2.

Limitation of indebtedness prescribed: RCW 39.36.020.

Limitations upon municipal indebtedness: State Constitution Art. 8 § 6.

28B.50.835 Exceptional faculty awards—Intent. The legislature recognizes that quality in the state's community and technical colleges would be strengthened by additional partnerships between citizens and the institutions. The legislature intends to foster these partnerships by creating a matching grant program to assist public community and technical colleges in creating endowments for funding exceptional faculty awards. [1991 c 238 § 62; 1990 c 29 § 1.]

Severability—1990 c 29: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 c 29 § 8.]

28B.50.837 Exceptional faculty awards—Established—Community and technical college faculty awards trust fund. (1) The Washington community and technical college exceptional faculty awards program is established. The program shall be administered by the college board. The college faculty awards trust fund hereby created shall be administered by the state treasurer.

(2) Funds appropriated by the legislature for the community and technical college exceptional faculty awards program shall be deposited in the college faculty awards trust fund. At the request of the college board, the treasurer shall release the state matching funds to the designated institution's local endowment fund. No appropriation is necessary for the expenditure of moneys from the fund. [1991 sp.s. c 13 §§ 108, 109; 1991 c 238 § 63; 1990 c 29 § 2.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Severability—1990 c 29: See note following RCW 28B.50.835.

28B.50.839 Exceptional faculty awards—Guidelines—Matching funds—Donations—Disbursements. (1) In consultation with eligible community and technical colleges, the college board shall set priorities and guidelines for the program.

(2) Under this section, a college shall not receive more than four faculty grants in twenty-five thousand dollar increments, with a maximum total of one hundred thousand dollars per campus in any biennium.

(3) All community and technical colleges shall be eligible for matching trust funds. Institutions may apply to the college board for grants from the fund in twenty-five thousand dollar increments up to a maximum of one hundred thousand dollars when they can match the state funds with equal cash donations from private sources, except that in the initial year of the program, no college may receive more than one grant until every college has received one grant. These donations shall be made specifically to the exceptional faculty awards program and deposited by the institution in a local endowment fund. Otherwise unrestricted gifts may be deposited in the endowment fund by the institution.

(4) Once sufficient private donations are received by the institution, the institution shall inform the college board and request state matching funds. The college board shall evaluate the request for state matching funds based on program priorities and guidelines. The college board may ask the state treasurer to release the state matching funds to a local endowment fund established by the institution for

each faculty award created. [1991 c 238 § 64; 1990 c 29 § 3.]

Severability—1990 c 29: See note following RCW 28B.50.835.

28B.50.841 Exceptional faculty awards—Name of award—Duties of institution—Use of endowment proceeds. (1) The faculty awards are the property of the institution and may be named in honor of a donor, benefactor, or honoree of the institution, at the option of the institution. The institution shall designate the use of the award. The designation shall be made or renewed annually.

(2) The institution is responsible for soliciting private donations, investing and maintaining its endowment funds, administering the faculty awards, and reporting on the program to the governor, the college board, and the legislature, upon request. The institution may augment its endowment fund with additional unrestricted private donations. The principal of the invested endowment fund shall not be invaded.

(3) The proceeds from the endowment fund shall be used to pay expenses for faculty awards, which may include in-service training, temporary substitute or replacement costs directly associated with faculty development programs, conferences, travel, publication and dissemination of exemplary projects; to supplement the salary of the holder or holders of a faculty award; or to pay expenses associated with the holder's program area. Funds from this program shall not be used to supplant existing faculty development funds. [1991 c 238 § 65; 1990 c 29 § 4.]

Severability—1990 c 29: See note following RCW 28B.50.835.

28B.50.843 Exceptional faculty awards—Determination of award—Collective bargaining. The process for determining local awards shall be subject to collective bargaining. Decisions regarding the amounts of individual awards and who receives them shall not be subject to collective bargaining and shall be subject to approval of the applicable board of trustees. [1991 c 238 § 66; 1990 c 29 § 5.]

Severability—1990 c 29: See note following RCW 28B.50.835.

28B.50.850 Faculty tenure—Purpose. It shall be the purpose of RCW 28B.50.850 through 28B.50.869 to establish a system of faculty tenure which protects the concepts of faculty employment rights and faculty involvement in the protection of those rights in the state system of community and technical colleges. RCW 28B.50.850 through 28B.50.869 shall define a reasonable and orderly process for appointment of faculty members to tenure status and the dismissal of the tenured faculty member.

Employees of the Seattle Vocational Institute are exempt from this section until July 1, 1993. [1991 c 238 § 67; 1969 ex.s. c 283 § 32. Formerly RCW 28.85.850.]

Severability—1969 ex.s. c 283: See note following RCW 28A.150.050.

28B.50.851 Faculty tenure—Definitions. As used in RCW 28B.50.850 through 28B.50.869:

(1) "Tenure" shall mean a faculty appointment for an indefinite period of time which may be revoked only for adequate cause and by due process;

(2)(a) "Faculty appointment", except as otherwise provided in (b) of this subsection, shall mean full time employment as a teacher, counselor, librarian or other position for which the training, experience and responsibilities are comparable as determined by the appointing authority, except administrative appointments; "faculty appointment" shall also mean department heads, division heads and administrators to the extent that such department heads, division heads or administrators have had or do have status as a teacher, counselor, or librarian; faculty appointment shall also mean employment on a reduced work load basis when a faculty member has retained tenure under RCW 28B.50.859;

(b) "Faculty appointment" shall not mean special faculty appointment as a teacher, counselor, librarian, or other position as enumerated in (a) of this subsection, when such employment results from special funds provided to a community college district from federal moneys or other special funds which other funds are designated as "special funds" by the college board: PROVIDED, That such "special funds" so designated by the college board for purposes of this section shall apply only to teachers, counselors and librarians hired from grants and service agreements and teachers, counselors and librarians hired in nonformula positions. A special faculty appointment resulting from such special financing may be terminated upon a reduction or elimination of funding or a reduction or elimination of program: PROVIDED FURTHER, That "faculty appointees" holding faculty appointments pursuant to subsections (1) or (2)(a) of this section who have been subsequently transferred to positions financed from "special funds" pursuant to (b) of this subsection and who thereafter lose their positions upon reduction or elimination of such "special funding" shall be entitled to be returned to previous status as faculty appointees pursuant to subsection (1) or (2)(a) of this section depending upon their status prior to the "special funding" transfer. Notwithstanding the fact that tenure shall not be granted to anyone holding a special faculty appointment, the termination of any such faculty appointment prior to the expiration of the term of such faculty member's individual contract for any cause which is not related to elimination or reduction of financing or the elimination or reduction of program shall be considered a termination for cause subject to the provisions of this chapter;

(3) "Probationary faculty appointment" shall mean a faculty appointment for a designated period of time which may be terminated without cause upon expiration of the probationer's terms of employment;

(4) "Probationer" shall mean an individual holding a probationary faculty appointment;

(5) "Administrative appointment" shall mean employment in a specific administrative position as determined by the appointing authority;

(6) "Appointing authority" shall mean the board of trustees of a college district;

(7) "Review committee" shall mean a committee composed of the probationer's faculty peers or tenured faculty member's peers, a student representative, and the administrative staff of the community or technical college: PROVIDED, That the majority of the committee shall consist of the probationer's faculty peers or tenured faculty member's peers. [1991 c 294 § 2; 1991 c 238 § 68; 1988 c

32 § 2; 1975 1st ex.s. c 112 § 1; 1974 ex.s. c 33 § 1; 1970 ex.s. c 5 § 3; 1969 ex.s. c 283 § 33. Formerly RCW 28.85.851.]

Reviser's note: This section was amended by 1991 c 238 § 68 and by 1991 c 294 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent—1991 c 294: "Improving the quality of instruction at our state institutions of higher education is a priority of the legislature. Recently, many efforts have been made by the legislature, the colleges, and the higher education coordinating board to assess and improve the quality of instruction received by students at our state institutions. It is the intent of the legislature that, in conjunction with these various efforts, the process for the award of faculty tenure at community colleges should allow for a thorough review of the performance of faculty appointees prior to the granting of tenure." [1991 c 294 § 1.]

Construction—1991 c 294: "Nothing contained in this act shall be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement." [1991 c 294 § 6.]

Effective date—Application—1991 c 294: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1991, and shall apply to all faculty appointments made by community colleges after June 30, 1991, but shall not apply to employees of community colleges who hold faculty appointments prior to July 1, 1991." [1991 c 294 § 7.]

Severability—1991 c 294: "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." [1991 c 294 § 8.]

Severability—1969 ex.s. c 283: See note following RCW 28A.150.050.

28B.50.852 Faculty tenure—Rules and regulations—Award of faculty tenure—Maximum probationary period. The appointing authority shall promulgate rules and regulations implementing RCW 28B.50.850 through 28B.50.869 and shall provide for the award of faculty tenure following a probationary period not to exceed nine consecutive college quarters, excluding summer quarter and approved leaves of absence: PROVIDED, That tenure may be awarded at any time as may be determined by the appointing authority after it has given reasonable consideration to the recommendations of the review committee. Upon formal recommendation of the review committee and with the written consent of the probationary faculty member, the appointing authority may extend its probationary period for one, two, or three quarters, excluding summer quarter, beyond the maximum probationary period established herein. No such extension shall be made, however, unless the review committee's recommendation is based on its belief that the probationary faculty member needs additional time to complete satisfactorily a professional improvement plan already in progress and in the committee's further belief that the probationary faculty member will complete the plan satisfactorily. At the conclusion of any such extension, the appointing authority may award tenure unless the probationary faculty member has, in the judgment of the committee, failed to complete the professional improvement plan satisfactorily. [1991 c 294 § 3; 1969 ex.s. c 283 § 34. Formerly RCW 28.85.852.]

Intent—Construction—Effective date, application—Severability—1991 c 294: See notes following RCW 28B.50.851.

Severability—1969 ex.s. c 283: See note following RCW 28A.150.050.

28B.50.855 Faculty tenure—Written agreement embodying terms of employment furnished faculty. The appointing authority shall provide each faculty member, immediately upon employment, with a written agreement which delineates the terms of employment including all conditions and responsibilities attached thereto. [1969 ex.s. c 283 § 35. Formerly RCW 28.85.855.]

Severability—1969 ex.s. c 283: See note following RCW 28A.150.050.

28B.50.856 Faculty tenure—Evaluation of probationer by review committee—Progress report, acknowledgment of receipt—Recommendation as to tenure. The probationary faculty appointment period shall be one of continuing evaluation of a probationer by a review committee. The evaluation process shall place primary importance upon the probationer's effectiveness in his appointment. The review committee shall periodically advise each probationer, in writing, of his progress during the probationary period and receive the probationer's written acknowledgment thereof. The review committee shall at appropriate times make recommendations to the appointing authority as to whether tenure should or should not be granted to individual probationers: PROVIDED, That the final decision to award or withhold tenure shall rest with the appointing authority, after it has given reasonable consideration to the recommendations of the review committee. [1969 ex.s. c 283 § 36. Formerly RCW 28.85.856.]

Severability—1969 ex.s. c 283: See note following RCW 28A.150.050.

28B.50.857 Faculty tenure—Decision not to renew probationary appointment, notice by appointing authority, when. Upon the decision not to renew a probationary faculty appointment, the appointing authority shall notify the probationer of such decision as soon as possible during the regular college year: PROVIDED, That such notice may not be given later than one complete quarter, except summer quarter, before the expiration of the probationary faculty appointment. [1991 c 294 § 4; 1969 ex.s. c 283 § 37. Formerly RCW 28.85.857.]

Intent—Construction—Effective date, application—Severability—1991 c 294: See notes following RCW 28B.50.851.

Severability—1969 ex.s. c 283: See note following RCW 28A.150.050.

28B.50.858 Faculty tenure—Performance review and evaluation—Performance improvement plan—Revocation of tenure. (1) The effectiveness and performance of each tenured faculty member of a community college shall be reviewed and formally evaluated by a review committee at least once every fifteen regular college quarters in which the tenured faculty [faculty] member is employed by the community college. The size, composition, and duties of the review committee defined in RCW 28B.50.851(7) may be altered for the purposes of this section with the mutual consent of the exclusive bargaining agent and the appointing authority.

(2) If, after the review conducted pursuant to subsection (1) of this section, the performance of the tenured faculty

member is judged to be unsatisfactory by the review committee, the tenured faculty member may be required by the appointing authority to implement a performance improvement plan for a period of no more than three regular college quarters, not including summer quarter.

(3) If, after the three quarter period in subsection (2) of this section, the tenured faculty member's performance is deemed to be unsatisfactory by the review committee, the appointing authority may revoke tenure and return the faculty member to a probationary faculty appointment. The appointing authority shall ensure due process for tenured faculty members in the decision to return any member to a probationary faculty appointment.

(4) The provisions of subsections (2) and (3) of this section are in addition to any tenure revocation procedures established pursuant to chapter 28B.52 RCW.

(5) The procedures, criteria, and conditions implementing this section are subject to negotiations between the appointing authority and the faculty's exclusive bargaining representative. [1991 c 294 § 5.]

Intent—Construction—Effective date, application—Severability—1991 c 294: See notes following RCW 28B.50.851.

28B.50.859 Faculty tenure—Tenure retained upon reduced work load assignment. An appointing authority may allow a tenured faculty member to retain tenure upon assignment to a reduced work load. The appointing authority and the faculty member shall execute a written agreement setting forth the terms and conditions of the assignment, including the conditions, if any, under which the faculty member may return to full time employment. [1988 c 32 § 1.]

28B.50.860 Faculty tenure—Tenure retained upon administrative appointment. A tenured faculty member, upon appointment to an administrative appointment shall be allowed to retain his tenure. [1977 ex.s. c 282 § 7; 1969 ex.s. c 283 § 38. Formerly RCW 28.85.860.]

Severability—1977 ex.s. c 282: See note following RCW 28B.50.870.

Severability—1969 ex.s. c 283: See note following RCW 28A.150.050.

28B.50.861 Faculty tenure—Dismissal only for sufficient cause. The tenured faculty member shall not be dismissed except for sufficient cause, nor shall a faculty member who holds a probationary faculty appointment be dismissed prior to the written terms of the appointment except for sufficient cause. [1969 ex.s. c 283 § 39. Formerly RCW 28.85.861.]

Severability—1969 ex.s. c 283: See note following RCW 28A.150.050.

28B.50.862 Faculty tenure—Certain grounds constituting sufficient cause. Sufficient cause shall also include aiding and abetting or participating in: (1) Any unlawful act of violence; (2) Any unlawful act resulting in destruction of community college property; or (3) Any unlawful interference with the orderly conduct of the educational process. [1969 ex.s. c 283 § 40. Formerly RCW 28.85.862.]

Severability—1969 ex.s. c 283: See note following RCW 28A.150.050.

28B.50.863 Faculty tenure—Review prior to dismissal—Scope—Recommendations of review committee. Prior to the dismissal of a tenured faculty member, or a faculty member holding an unexpired probationary faculty appointment, the case shall first be reviewed by a review committee. The review shall include testimony from all interested parties including, but not limited to, other faculty members and students. The faculty member whose case is being reviewed shall be afforded the right of cross-examination and the opportunity to defend himself. The review committee shall prepare recommendations on the action they propose be taken and submit such recommendations to the appointing authority prior to their final action. [1969 ex.s. c 283 § 41. Formerly RCW 28.85.863.]

Severability—1969 ex.s. c 283: See note following RCW 28A.150.050.

28B.50.864 Faculty tenure—Appeal from decision for dismissal—Procedure. Any faculty member dismissed pursuant to RCW 28B.50.850 through 28B.50.869 shall have a right to appeal the final decision of the appointing authority in accordance with RCW 34.05.510 through 34.05.598. [1989 c 175 § 80; 1973 c 62 § 24; 1969 ex.s. c 283 § 42. Formerly RCW 28.85.864.]

Effective date—1989 c 175: See note following RCW 34.05.010.

Savings—Severability—1973 c 62: See notes following RCW 28B.10.510.

Severability—1969 ex.s. c 283: See note following RCW 28A.150.050.

28B.50.867 Faculty tenure—Tenure rights upon transfer of employment to another community or technical college. Upon transfer of employment from one community or technical college to another community or technical college within a district, a tenured faculty member shall have the right to retain tenure and the rights accruing thereto which he or she had in his or her previous employment: PROVIDED, That upon permanent transfer of employment to another college district a tenured faculty member shall not have the right to retain his tenure or any of the rights accruing thereto. [1991 c 238 § 69; 1969 ex.s. c 283 § 43. Formerly RCW 28.85.867.]

Severability—1969 ex.s. c 283: See note following RCW 28A.150.050.

28B.50.868 Faculty tenure—Faculty members currently employed granted tenure. All employees of a community college district, except presidents, who were employed in the community college district at the effective date of chapter 283, Laws of 1969 ex. sess. and who hold or have held a faculty appointment with the community college district or its predecessor school district shall be granted tenure by their appointing authority notwithstanding any other provision of RCW 28B.50.850 through 28B.50.869. [1970 ex.s. c 5 § 4; 1969 ex.s. c 283 § 44. Formerly RCW 28.85.868.]

Reviser's note: The various provisions of chapter 283, Laws of 1969 ex. sess. became effective on several different dates. The effective date of the provisions thereof relating to tenure appears to have been midnight

August 10, 1969, see preface, Laws of 1969 ex. sess., and see also 1969 ex.s. c 283 §§ 54 and 55 (unmodified).

Severability—1969 ex.s. c 283: See note following RCW 28A.150.050.

28B.50.869 Faculty tenure—Review committees, composition—Selection of teaching faculty representatives, student representative. The review committees required by RCW 28B.50.850 through 28B.50.869 shall be composed of members of the administrative staff, a student representative, and the teaching faculty. The representatives of the teaching faculty shall represent a majority of the members on each review committee. The members representing the teaching faculty on each review committee shall be selected by a majority of the teaching faculty and faculty department heads acting in a body. The student representative, who shall be a full time student, shall be chosen by the student association of the particular community or technical college in such manner as the members thereof shall determine. [1991 c 238 § 70; 1974 ex.s. c 33 § 2; 1969 ex.s. c 283 § 45. Formerly RCW 28.85.869.]

Severability—1969 ex.s. c 283: See note following RCW 28A.150.050.

28B.50.870 Faculty tenure—For certain educational programs operated in state correctional institutions. The district board of trustees of any college district currently operating an educational program with funds provided by another state agency, including federal funds, which program has been in existence for five or more years under the administration of one or more college districts, shall provide for the award or denial of tenure to anyone who holds a special faculty appointment in such curricular program and for as long as the program continues to be funded in such manner, utilizing the prescribed probationary processes and procedures set forth in this chapter with the exception that no student representative shall be required to serve on the review committee defined in RCW 28B.50.851: PROVIDED, That such review processes and procedures shall not be applicable to faculty members whose contracts are renewed after *the effective date of this 1977 amendatory act and who have completed at least three consecutive years of satisfactory full time service in such program, who shall be granted tenure by the college district: PROVIDED FURTHER, That faculty members who have completed one year or more of satisfactory full time service in such program shall be credited with such service for the purposes of this section: PROVIDED, FURTHER, That provisions relating to tenure for faculty under the provisions of this section shall be distinct from provisions relating to tenure for other faculty of the college district and faculty appointed to such special curricular program shall be treated as a separate unit as respects selection, retention, reduction in force or dismissal hereunder: AND PROVIDED FURTHER, That the provisions of this section shall only be applicable to faculty holding a special faculty appointment in an educational program operated in a state correctional institution pursuant to a written contract with a college district. [1991 c 238 § 71; 1977 ex.s. c 282 § 1.]

***Reviser's note:** Phrase "the effective date of this 1977 amendatory act": Except for RCW 28B.50.100 and 28B.50.101 which were effective January 1, 1978, (see note following RCW 28B.50.100) the effective date

of 1977 ex.s. c 282 (the enactment of RCW 28B.50.870, 28B.50.090, 28B.50.140, 28B.50.300, 28B.50.860 and the repeal of RCW 28B.50.570, 28B.50.590, 28B.50.750 and 28B.56.060) was September 21, 1977.

Severability—1977 ex.s. c 282: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 282 § 10.]

28B.50.873 Reduction in force of tenured or probationary faculty members due to financial emergency—Conditions—Procedure—Rights. The college board may declare a financial emergency under the following conditions: (1) Reduction of allotments by the governor pursuant to *RCW 43.88.110(2), or (2) reduction by the legislature from one biennium to the next or within a biennium of appropriated funds based on constant dollars using the implicit price deflator. When a district board of trustees determines that a reduction in force of tenured or probationary faculty members may be necessary due to financial emergency as declared by the state board, written notice of the reduction in force and separation from employment shall be given the faculty members so affected by the president or district president as the case may be. Said notice shall clearly indicate that separation is not due to the job performance of the employee and hence is without prejudice to such employee and need only state in addition the basis for the reduction in force as one or more of the reasons enumerated in subsections (1) and (2) of this section.

Said tenured or probationary faculty members will have a right to request a formal hearing when being dismissed pursuant to subsections (1) and (2) of this section. The only issue to be determined shall be whether under the applicable policies, rules or collective bargaining agreement the particular faculty member or members advised of severance are the proper ones to be terminated. Said hearing shall be initiated by filing a written request therefor with the president or district president, as the case may be, within ten days after issuance of such notice. At such formal hearing the tenure review committee provided for in RCW 28B.50.863 may observe the formal hearing procedure and after the conclusion of such hearing offer its recommended decision for consideration by the hearing officer. Failure to timely request such a hearing shall cause separation from service of such faculty members so notified on the effective date as stated in the notice, regardless of the duration of any individual employment contract.

The hearing required by this section shall be an adjudicative proceeding pursuant to chapter 34.05 RCW, the Administrative Procedure Act, conducted by a hearing officer appointed by the board of trustees and shall be concluded by the hearing officer within sixty days after written notice of the reduction in force has been issued. Ten days written notice of the formal hearing will be given to faculty members who have requested such a hearing by the president or district president as the case may be. The hearing officer within ten days after conclusion of such formal hearing shall prepare findings, conclusions of law and a recommended decision which shall be forwarded to the board of trustees for its final action thereon. Any such determination by the hearing officer under this section shall not be subject to further tenure review committee action as otherwise provided in this chapter.

Notwithstanding any other provision of this section, at the time of a faculty member or members request for formal hearing said faculty member or members may ask for participation in the choosing of the hearing officer in the manner provided in RCW 28A.405.310(4), said employee therein being a faculty member for the purposes hereof and said board of directors therein being the board of trustees for the purposes hereof: PROVIDED, That where there is more than one faculty member affected by the board of trustees' reduction in force such faculty members requesting hearing must act collectively in making such request: PROVIDED FURTHER, That costs incurred for the services and expenses of such hearing officer shall be shared equally by the community or technical college and the faculty member or faculty members requesting hearing.

When more than one faculty member is notified of termination because of a reduction in force as provided in this section, hearings for all such faculty members requesting formal hearing shall be consolidated and only one such hearing for the affected faculty members shall be held, and such consolidated hearing shall be concluded within the time frame set forth herein.

Separation from service without prejudice after formal hearing under the provisions of this section shall become effective upon final action by the board of trustees.

It is the intent of the legislature by enactment of this section and in accordance with RCW 28B.52.035, to modify any collective bargaining agreements in effect, or any conflicting board policies or rules, so that any reductions in force which take place after December 21, 1981, whether in progress or to be initiated, will comply solely with the provisions of this section: PROVIDED, That any applicable policies, rules, or provisions contained in a collective bargaining agreement related to lay-off units, seniority and re-employment rights shall not be affected by the provisions of this paragraph.

Nothing in this section shall be construed to affect the right of the board of trustees or its designated appointing authority not to renew a probationary faculty appointment pursuant to RCW 28B.50.857. [1991 c 238 § 72; 1990 c 33 § 559; 1989 c 175 § 81; 1981 2nd ex.s. c 13 § 1.]

***Reviser's note:** RCW 43.88.110(2) was renumbered as RCW 43.88.110(3) by 1991 c 358 § 2.

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Effective date—1989 c 175: See note following RCW 34.05.010.

Severability—1981 2nd ex.s. 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." [1981 2nd ex.s. c 13 § 3.]

28B.50.874 Transfer of administration of vocational-technical institutes to system of community and technical colleges—Personnel rights. When the state system of community and technical colleges assumes administrative control of the vocational-technical institutes, personnel employed by the vocational-technical institutes shall:

(1) Suffer no reduction in compensation, benefits, seniority, or employment status. After September 1, 1991, classified employees shall continue to be covered by chapter

41.56 RCW and faculty members and administrators shall be covered by chapter 28B.50 RCW;

(2) To the extent applicable to faculty members, any faculty currently employed on a "continuing contract" basis under RCW 28A.405.210 be awarded tenure pursuant to RCW 28B.50.851 through 28B.50.873, except for any faculty members who are provisional employees under RCW 28A.405.220;

(3) Be eligible to participate in the health care and other insurance plans provided by the health care authority and the state employee benefits board pursuant to chapter 41.05 RCW;

(4) Be eligible to participate in old age annuities or retirement income plans under the rules of the state board for community and technical colleges pursuant to RCW 28B.10.400 or the teachers' retirement system plan I for personnel employed before July 1, 1977, or plan II for personnel employed after July 1, 1977, under chapter 41.32 RCW; however, no affected vocational-technical institute employee shall be required to choose from among any available retirement plan options prior to six months after September 1, 1991;

(5) Have transferred to their new administrative college district all accrued sick and vacation leave and thereafter shall earn and use all such leave under the rule established pursuant to RCW 28B.50.551;

(6) Be eligible to participate in the deferred compensation plan pursuant to RCW 41.04.250 and the dependent care program pursuant to RCW 41.04.600 under the rules established by the state deferred compensation committee.

An exclusive bargaining representative certified to represent a bargaining unit covering employees of a vocational technical institute on September 1, 1991, shall remain the exclusive representative of such employees thereafter until and unless such representative is replaced or decertified in accordance with state law.

Any collective bargaining agreement in effect on June 30, 1991, shall remain in effect as it applies to employees of vocational technical institutes until its expiration or renewal date or until renegotiated or renewed in accordance with chapter 28B.52 or 41.56 RCW. After the expiration date of a collective bargaining agreement, all of the terms and conditions specified in the collective bargaining agreement, as it applies to employees of vocational-technical institutes, shall remain in effect until the effective date of a subsequent agreement, not to exceed one year from the termination date stated in the agreement. The board of trustees and the employees may mutually agree to continue the terms and conditions of the agreement beyond the one year extension. However, nothing in this section shall be construed to deny any employee right granted under chapter 28B.52 or 41.56 RCW. Labor relations processes and agreements covering faculty members of vocational technical institutes after September 1, 1991, shall be governed by chapter 28B.52 RCW. Labor relations processes and agreements covering classified employees of vocational technical institutes after September 1, 1991, shall continue to be governed by chapter 41.56 RCW. [1991 c 238 § 83.]

28B.50.875 Laboratory services for the analyzing of samples, public agencies may contract with college for.

Local law enforcement agencies or such other public agencies that shall be in need of such service may contract with any community or technical college for laboratory services for the analyzing of samples that chemists associated with such colleges may be able to perform under such terms and conditions as the individual college may determine.

Employees of the Seattle Vocational Institute are exempt from this section until July 1, 1993. [1991 c 238 § 73; 1969 ex.s. c 261 § 35. Formerly RCW 28.85.875.]

Severability—1969 ex.s. c 261: See note following RCW 28B.50.020.

28B.50.877 Technical colleges—Purchase of support services from school districts. During the period from May 17, 1991, until September 1, 1991:

(1) The executive director of the state board for community and technical colleges, or the executive director's designee, may enter into contracts, or agreements for goods, services, and personnel, on behalf of the technical college, which are effective after September 1, 1991. The executive director, or the executive director's designee, may conduct business, including budget approval, relevant to the operation of the technical college in the period subsequent to September 1, 1991.

(2) Vocational-technical institute directors may conduct business relevant to the operation of the vocational-technical institutes. School boards and superintendents may not restrict or remove powers previously delegated to the vocational-technical institute directors during the 1990-91 school year.

(3) Technical colleges' boards of trustees appointed before September 1, 1991, shall serve in an advisory capacity to the vocational-technical institute director.

As of September 1, 1991, technical colleges may, by interlocal agreement, continue to purchase from the school districts, support services within mutually agreed upon categories at a cost not to exceed the indirect rate charged during the 1990-91 school year. No employee of a technical college may be discriminated against based on actions or opinions expressed on issues surrounding chapter 238, Laws of 1991. Any dispute related to issues contained in this section shall be resolved under RCW 28B.50.302. [1991 c 238 § 143.]

28B.50.880 Apprentices—Related and supplemental instruction—Training of teachers and coordinators. Related and supplemental instruction for apprentices, coordination of instruction with job experiences, and the selection and training of teachers and coordinators for such instruction shall be the responsibility of the state board for community and technical colleges and its local community and technical colleges. [1991 c 238 § 111.]

28B.50.900 Evaluation of merger of technical and community colleges—Report. By December 1, 1996, the state board shall complete a report evaluating successes and difficulties associated with the merger of the technical and community colleges into one system. The evaluation shall include but need not be limited to consideration of all local governance models for technical colleges. The state board

shall provide the report, and any recommendations, including recommendations for revisions to local governance models, to the governor, the house and senate committees on higher education, and the work force training and education coordinating board. [1991 c 238 § 29.]

28B.50.910 Severability—1969 ex.s. c 223. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1969 ex.s. c 223 § 28B.50.910. Prior: 1967 ex.s. c 8 § 72. Formerly RCW 28.85.910.]

28B.50.912 Transfer of powers from superintendent of public instruction and state board of education to state board for community and technical colleges. All powers, duties, and functions of the superintendent of public instruction and the state board of education pertaining to projects of adult education, including the state-funded Even Start and including the adult education programs operated pursuant to 20 U.S.C. Sec. 1201 as amended by P.L. 100-297, are transferred to the state board for community and technical colleges. All references to the director or superintendent of public instruction or the state board of education in the Revised Code of Washington shall be construed to mean the director or the state board for community and technical colleges when referring to the functions transferred in this section. [1991 c 238 § 85.]

28B.50.913 Transfer of powers from Washington institute for applied technology to Seattle Vocational Institute. The public nonprofit corporation for the Washington institute for applied technology is hereby abolished and its powers, duties, and functions are hereby transferred to the sixth college district. The Washington institute for applied technology shall be renamed the Seattle Vocational Institute. The Seattle Vocational Institute shall become a fourth unit of the sixth college district. All references to the director or public nonprofit corporation for the Washington institute for applied technology in the Revised Code of Washington shall be construed to mean the director of the Seattle Vocational Institute. [1991 c 238 § 94.]

Contingency—1991 c 238 §§ 93-101, 156: See note following RCW 28B.50.305.

28B.50.914 Transfer of powers from school districts to state board for community and technical colleges. All powers, duties, and functions of the school district pertaining to a vocational-technical institute are transferred to the state board for community and technical colleges until the establishment of local boards of trustees with authority for the technical college. All references to the director or school district in the Revised Code of Washington shall be construed to mean the director or state board for community and technical colleges when referring to the functions transferred in this section. [1991 c 238 § 116.]

28B.50.915 Transfer of powers from superintendent of public instruction to state board for community and technical colleges. All powers, duties, and functions of the superintendent of public instruction pertaining to vocational-

technical institutes are transferred to the state board for community and technical colleges. All references to the director or superintendent of public instruction in the Revised Code of Washington shall be construed to mean the director or state board for community and technical colleges when referring to the functions transferred in this section. [1991 c 238 § 122.]

28B.50.917 Effective dates—1991 c 238. Sections 1 through 7, 14 through 19, 24 through 28, 33, 76 through 81, 85 through 111, 114, 140 through 144, and 164 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions.

Sections 33, 114, and 142 through 144 of this act shall take effect immediately.

Sections 1 through 8, 14 through 19, 24 through 28, 76 through 81, 85 through 111, 140, 141, and 164 of this act shall take effect July 1, 1991.

Sections 20 through 23, 29 through 32, 34 through 75, 82 through 84, 112, 113, 115 through 139, and 145 through 158 of this act shall take effect September 1, 1991.

Sections 8 through 13 of this act shall take effect October 1, 1991. [1991 c 238 § 166.]

28B.50.918 Severability—1991 c 238. 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. [1991 c 238 § 167.]

Chapter 28B.52

COLLECTIVE BARGAINING—ACADEMIC PERSONNEL IN COMMUNITY COLLEGES

(Formerly: Negotiations by academic personnel—Community college districts)

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- 28B.52.300 Construction of chapter.
 28B.52.310 Chapter not applicable to employees of Seattle Vocational Institute.
 28B.52.900 Severability—1987 c 314.

28B.52.010 Declaration of purpose. It is the purpose of this chapter to strengthen methods of administering employer-employee relations through the establishment of orderly methods of communication between academic employees and the college districts by which they are employed.

It is the purpose of this chapter to promote cooperative efforts by prescribing certain rights and obligations of the employees and employers and by establishing orderly procedures governing the relationship between the employees and their employers which procedures are designed to meet the special requirements and needs of public employment in higher education. It is the intent of this chapter to promote activity that includes the elements of open communication and access to information in a timely manner, with reasonable discussion and interpretation of that information. It is the further intent that such activity shall be characterized by mutual respect, integrity, reasonableness, and a desire on the part of the parties to address and resolve the points of concern. [1991 c 238 § 145; 1987 c 314 § 1; 1971 ex.s. c 196 § 1.]

Effective dates—Severability—1991 c 238: See RCW 28B.50.917 and 28B.50.918.

28B.52.020 Definitions. As used in this chapter:

(1) "Employee organization" means any organization which includes as members the academic employees of a college district and which has as one of its purposes the representation of the employees in their employment relations with the college district.

(2) "Academic employee" means any teacher, counselor, librarian, or department head, who is employed by any college district, whether full or part time, with the exception of the chief administrative officer of, and any administrator in, each college district.

(3) "Administrator" means any person employed either full or part time by the college district and who performs administrative functions as at least fifty percent or more of his or her assignments, and has responsibilities to hire, dismiss, or discipline other employees. Administrators shall not be members of the bargaining unit unless a majority of such administrators and a majority of the bargaining unit elect by secret ballot for such inclusion pursuant to rules as adopted in accordance with RCW 28B.52.080.

(4) "Commission" means the public employment relations commission.

(5) "Unfair labor practice" means any unfair labor practice listed in RCW 28B.52.073.

(6) "Union security provision" means a provision in a collective bargaining agreement under which some or all employees in the bargaining unit may be required, as a condition of continued employment on or after the thirtieth day following the beginning of such employment or the effective date of the provision, whichever is later, to become a member of the exclusive bargaining representative or pay an agency fee equal to the periodic dues and initiation fees

uniformly required as a condition of acquiring or retaining membership in the exclusive bargaining representative.

(7) "Exclusive bargaining representative" means any employee organization which has:

(a) Been certified or recognized under this chapter as the representative of the employees in an appropriate collective bargaining unit; or

(b) Before July 26, 1987, been certified or recognized under a predecessor statute as the representative of the employees in a bargaining unit which continues to be appropriate under this chapter.

(8) "Collective bargaining" and "bargaining" mean the performance of the mutual obligation of the representatives of the employer and the exclusive bargaining representative to meet at reasonable times to bargain in good faith in an effort to reach agreement with respect to wages, hours, and other terms and conditions of employment, such as procedures related to nonretention, dismissal, denial of tenure, and reduction in force. Prior law, practice, or interpretation shall be neither restrictive, expansive, nor determinative with respect to the scope of bargaining. A written contract incorporating any agreements reached shall be executed if requested by either party. The obligation to bargain does not compel either party to agree to a proposal or to make a concession.

In the event of a dispute between an employer and an exclusive bargaining representative over the matters that are terms and conditions of employment, the commission shall decide which items are mandatory subjects for bargaining. [1991 c 238 § 146; 1987 c 314 § 2; 1975 1st ex.s. c 296 § 12; 1973 1st ex.s. c 205 § 1; 1971 ex.s. c 196 § 2.]

Effective dates—Severability—1991 c 238: See RCW 28B.50.917 and 28B.50.918.

Effective date—1975 1st ex.s. c 296 § 12: See RCW 41.58.901.

Severability—1973 1st ex.s. c 205: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 1st ex.s. c 205 § 7.]

Public employment relations commission: Chapter 41.58 RCW.

28B.52.025 Right to organize or refrain from organizing. Employees have the right to self-organization, to form, join, or assist employee organizations, to bargain collectively through representatives of their own choosing, and also have the right to refrain from any or all of these activities except to the extent that employees may be required to make payments to an exclusive bargaining representative or charitable organization under a union security provision authorized in this chapter. [1987 c 314 § 5.]

28B.52.030 Representatives of employee organization—Right to collective bargaining. Representatives of an employee organization, which organization shall by secret ballot have won a majority in an election to represent the academic employees within its college district, shall have the right to bargain as defined in RCW 28B.52.020(8). [1991 c 238 § 147; 1987 c 314 § 3; 1973 1st ex.s. c 205 § 2; 1971 ex.s. c 196 § 3.]

Effective dates—Severability—1991 c 238: See RCW 28B.50.917 and 28B.50.918.

Severability—1973 1st ex.s. c 205: See note following RCW 28B.52.020.

28B.52.035 Negotiations reduced to written agreements—Provisions relating to salary increases—Restrictions. At the conclusion of any negotiation processes as provided for in RCW 28B.52.030, any matter upon which the parties have reached agreement shall be reduced to writing and acted upon in a regular or special meeting of the boards of trustees, and become part of the official proceedings of said board meeting. Provisions of written contracts relating to salary increases shall not exceed the amount or percentage established by the legislature in the appropriations act and allocated to the board of trustees by the state board for community and technical colleges. The length of term of any such agreement shall be for not more than three fiscal years. Any provisions of these agreements pertaining to salary increases will not be binding upon future actions of the legislature. If any provision of a salary increase is changed by subsequent modification of the appropriations act by the legislature, both parties shall immediately enter into collective bargaining for the sole purpose of arriving at a mutually agreed upon replacement for the modified provision. [1991 c 238 § 148; 1987 c 314 § 4; 1973 1st ex.s. c 205 § 4.]

Effective dates—Severability—1991 c 238: See RCW 28B.50.917 and 28B.50.918.

Severability—1973 1st ex.s. c 205: See note following RCW 28B.52.020.

28B.52.040 Negotiated agreements—Procedures for binding arbitration. A board of trustees or an employee organization that enters into a negotiated agreement under RCW 28B.52.030 may include in the agreement procedures for binding arbitration of the disputes arising about the interpretation or application of the agreement including but not limited to nonretention, dismissal, denial of tenure, and reduction in force. [1987 c 314 § 6.]

28B.52.045 Collective bargaining agreement—Exclusive bargaining representative—Union security provisions—Dues and fees. (1) Upon filing with the employer the voluntary written authorization of a bargaining unit employee under this chapter, the employee organization which is the exclusive bargaining representative of the bargaining unit shall have the right to have deducted from the salary of the bargaining unit employee the periodic dues and initiation fees uniformly required as a condition of acquiring or retaining membership in the exclusive bargaining representative. Such employee authorization shall not be irrevocable for a period of more than one year. Such dues and fees shall be deducted from the pay of all employees who have given authorization for such deduction, and shall be transmitted by the employer to the employee organization or to the depository designated by the employee organization.

(2) A collective bargaining agreement may include union security provisions, but not a closed shop. If an agency shop or other union security provision is agreed to, the employer shall enforce any such provision by deductions from the salary of bargaining unit employees affected thereby and shall transmit such funds to the employee

organization or to the depository designated by the employee organization.

(3) An employee who is covered by a union security provision and who asserts a right of nonassociation based on bona fide religious tenets or teachings of a church or religious body of which such employee is a member shall pay to a nonreligious charity or other charitable organization an amount of money equivalent to the periodic dues and initiation fees uniformly required as a condition of acquiring or retaining membership in the exclusive bargaining representative. The charity shall be agreed upon by the employee and the employee organization to which such employee would otherwise pay the dues and fees. The employee shall furnish written proof that such payments have been made. If the employee and the employee organization do not reach agreement on such matter, the commission shall designate the charitable organization. [1987 c 314 § 8.]

28B.52.050 Academic employee may appear in own behalf. Nothing in this chapter shall prohibit any academic employee from appearing in his or her own behalf on matters relating to his or her employment relations with the college district. [1991 c 238 § 149; 1971 ex.s. c 196 § 4.]

Effective dates—Severability—1991 c 238: See RCW 28B.50.917 and 28B.50.918.

28B.52.060 Commission—Mediation activities—Other dispute resolution procedures authorized. The commission shall conduct mediation activities upon the request of either party as a means of assisting in the settlement of unresolved matters considered under this chapter.

In the event that any matter being jointly considered by the employee organization and the board of trustees of the college district is not settled by the means provided in this chapter, either party, twenty-four hours after serving written notice of its intended action to the other party, may, request the assistance and advice of the commission. Nothing in this section prohibits an employer and an employee organization from agreeing to substitute, at their own expense, some other impasse procedure or other means of resolving matters considered under this chapter. [1991 c 238 § 150; 1987 c 314 § 9; 1975 1st ex.s. c 296 § 13; 1973 1st ex.s. c 205 § 3; 1971 ex.s. c 196 § 5.]

Effective dates—Severability—1991 c 238: See RCW 28B.50.917 and 28B.50.918.

Effective date—1975 1st ex.s. c 296 § 13: See RCW 41.58.901.

Severability—1973 1st ex.s. c 205: See note following RCW 28B.52.020.

28B.52.065 Commission's adjudication of unfair labor practices—Rules—Binding arbitration authorized. The commission may adjudicate any unfair labor practices alleged by a board of trustees or an employee organization and shall adopt reasonable rules to administer this section. However, the parties may agree to seek relief from unfair labor practices through binding arbitration. [1987 c 314 § 10.]

28B.52.070 Discrimination prohibited. Boards of trustees of college districts or any administrative officer thereof shall not discriminate against academic employees or

applicants for such positions because of their membership or nonmembership in employee organizations or their exercise of other rights under this chapter. [1991 c 238 § 151; 1971 ex.s. c 196 § 6.]

Effective dates—Severability—1991 c 238: See RCW 28B.50.917 and 28B.50.918.

28B.52.073 Unfair labor practices. (1) It shall be an unfair labor practice for an employer:

(a) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed by this chapter;

(b) To dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it: PROVIDED, That subject to rules adopted by the commission, an employer shall not be prohibited from permitting employees to confer with it or its representatives or agents during working hours without loss of time or pay;

(c) To encourage or discourage membership in any employee organization by discrimination in regard to hire, tenure of employment, or any term or condition of employment;

(d) To discharge or discriminate otherwise against an employee because that employee has filed charges or given testimony under this chapter;

(e) To refuse to bargain collectively with the representatives of its employees.

(2) It shall be an unfair labor practice for an employee organization:

(a) To restrain or coerce an employee in the exercise of the rights guaranteed by this chapter: PROVIDED, That this subsection shall not impair the right of an employee organization to prescribe its own rules with respect to the acquisition or retention of membership in the employee organization or to an employer in the selection of its representatives for the purpose of bargaining or the adjustment of grievances;

(b) To cause or attempt to cause an employer to discriminate against an employee in violation of subsection (1)(c) of this section;

(c) To discriminate against an employee because that employee has filed charges or given testimony under this chapter;

(d) To refuse to bargain collectively with an employer.

(3) The expressing of any views, arguments, or opinion, or the dissemination thereof to the public, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under this chapter, if such expression contains no threat of reprisal or force or promise of benefit. [1987 c 314 § 11.]

28B.52.078 Strikes and lockouts prohibited—Violations—Remedies. The right of college faculty to engage in any strike is prohibited. The right of a board of trustees to engage in any lockout is prohibited. Should either a strike or lockout occur, the representative of the faculty or board of trustees may invoke the jurisdiction of the superior court in the county in which the labor dispute exists and such court shall have jurisdiction to issue an appropriate order against either or both parties. In fashioning an order, the court shall take into consideration not only the elements necessary for injunctive relief but also the

purpose and goals of this chapter and any mitigating factors such as the commission of an unfair labor practice by either party. [1991 c 238 § 152; 1987 c 314 § 13.]

Effective dates—Severability—1991 c 238: See RCW 28B.50.917 and 28B.50.918.

28B.52.080 Commission to adopt rules and regulations—Boards may request commission services. The commission shall adopt reasonable rules and regulations for the administration of employer-employee relations under this chapter. The boards may request the services of the commission to assist in the conduction of certification elections as provided for in RCW 28B.52.030. [1975 1st ex.s. c 296 § 14; 1973 1st ex.s. c 205 § 5; 1971 ex.s. c 196 § 7.]

Effective date—1975 1st ex.s. c 296 § 14: See 1975-'76 2nd ex.s. c 5 § 8, RCW 41.58.901.

Severability—1973 1st ex.s. c 205: See note following RCW 28B.52.020.

28B.52.090 Prior agreements. Nothing in this chapter shall be construed to annul or modify, or to preclude the renewal or continuation of, any lawful agreement heretofore entered into between any college district and any representative of its employees. [1991 c 238 § 153; 1971 ex.s. c 196 § 8.]

Effective dates—Severability—1991 c 238: See RCW 28B.50.917 and 28B.50.918.

28B.52.100 State higher education administrative procedures act not to affect. Contracts or agreements, or any provision thereof entered into between boards of trustees and employees organizations pursuant to this chapter shall not be affected by or be subject to chapter 34.05 RCW. [1971 ex.s. c 196 § 9.]

28B.52.200 Scope of chapter—Limitations—When attempts to resolve dispute required. Nothing in chapter 28B.52 RCW as now or hereafter amended shall compel either party to agree to a proposal or to make a concession, nor shall any provision in chapter 28B.52 RCW as now or hereafter amended be construed as limiting or precluding the exercise by each college board of trustees of any powers or duties authorized or provided to it by law unless such exercise is contrary to the terms and conditions of any lawful negotiated agreement, except that other than to extend the terms of a previous contract, a board of trustees shall not take unilateral action on any unresolved issue under negotiation, unless the parties have first participated in good faith mediation or some other procedure as authorized by RCW 28B.52.060 to seek resolution of the issue. [1991 c 238 § 154; 1987 c 314 § 12; 1973 1st ex.s. c 205 § 6.]

Effective dates—Severability—1991 c 238: See RCW 28B.50.917 and 28B.50.918.

Severability—1973 1st ex.s. c 205: See note following RCW 28B.52.020.

28B.52.210 Scope of chapter—Community and technical colleges faculty awards trust program. With respect to the community and technical colleges faculty awards trust program, the permissible scope of collective

bargaining under this chapter shall be governed by RCW 28B.50.843. [1991 c 238 § 155; 1990 c 29 § 6.]

Effective dates—Severability—1991 c 238: See RCW 28B.50.917 and 28B.50.918.

Severability—1990 c 29: See note following RCW 28B.50.835.

28B.52.300 Construction of chapter. Except as otherwise expressly provided in this chapter, this chapter shall not be construed to deny or otherwise abridge any rights, privileges, or benefits granted by law to employees. This chapter shall not be construed to interfere with the responsibilities and rights of the board of trustees as specified by federal and state law. [1987 c 314 § 7.]

28B.52.310 Chapter not applicable to employees of Seattle Vocational Institute. Employees of the Seattle Vocational Institute are exempt from the provisions of this chapter until July 1, 1993. [1991 c 238 § 109.]

Effective dates—Severability—1991 c 238: See RCW 28B.50.917 and 28B.50.918.

28B.52.900 Severability—1987 c 314. 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. [1987 c 314 § 15.]

Chapter 28B.56

1972 COMMUNITY COLLEGES FACILITIES AID— BOND ISSUE

Sections

- 28B.56.010 Purpose.
- 28B.56.020 Bonds authorized—Payment—Limitations.
- 28B.56.040 Proceeds from bond sale—Administration and expenditure.
- 28B.56.050 "Community college facilities" defined.
- 28B.56.070 Referral to electorate.
- 28B.56.080 Form, terms, conditions and manner of sale and issuance—
Limitation.
- 28B.56.090 Anticipation notes—Authorized—Contents—Payment.
- 28B.56.100 Community college capital improvements bond redemption
fund of 1972—Created—Tax receipts in—Use of funds
from.
- 28B.56.110 Legislature may provide additional means of revenue.
- 28B.56.120 Bonds as legal investment for state and municipal corpora-
tion funds.

28B.56.010 Purpose. The community colleges of the state of Washington have more than doubled their enrollment since 1966, including a three hundred percent increase in occupational education. The capital fund resources of the state community college system are not adequate to meet the facility needs of today's students. Major increments of community college facilities will be needed to serve the still growing numbers of commuting youth and adults attending the community college system. A determination of the facility needs of each college has been made through the uniform application of guidelines developed by the *state board for community college education to evaluate facility needs. [1972 ex.s. c 133 § 1.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Legislative direction—1972 ex.s. c 133: "Upon adoption and ratification by the people as provided for in section 7 of this act, sections 1 through 12 herein shall constitute a new chapter in Title 28B RCW." [1972 ex.s. c 133 § 13.]

**28B.56.020 Bonds authorized—Payment—
Limitations.** For the purpose of providing funds for the acquisition, construction and improvement of community college facilities in this state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of fifty million dollars or so much thereof as may be required to finance the improvements defined in this chapter and all costs incidental thereto. These bonds shall be paid and discharged within twenty years of the date of issuance, or within thirty years, should Article VIII of the Constitution of the state of Washington be amended to permit such longer term. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation of the proceeds of such bonds to be sold. [1977 ex.s. c 242 § 5; 1972 ex.s. c 133 § 2.]

Severability—1977 ex.s. c 242: See note following RCW 43.83A.020.

**28B.56.040 Proceeds from bond sale—
Administration and expenditure.** The proceeds from the sale of bonds deposited in the community college capital improvements account shall be administered and expended by the *state board for community college education subject to legislative appropriation. [1972 ex.s. c 133 § 4.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

28B.56.050 "Community college facilities" defined. For the purposes of this chapter, the term "community college facilities" shall mean and include, but not be limited to, vocational facilities, including capital equipment acquisition, and such other specific projects as approved and funded for planning purposes by the legislature which shall include general education classrooms, science laboratories, faculty offices, student dining facilities, library and media facilities, offices for student personnel services and administrative personnel, and all real property and interests therein, equipment, parking facilities, utilities, appurtenances and landscaping incidental to such facilities. [1972 ex.s. c 133 § 5.]

28B.56.070 Referral to electorate. This chapter shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1972, in accordance with the provisions of section 3, Article VIII of the Constitution of the state of Washington, and in accordance with the provisions of section 1, Article II of the Constitution of the state of Washington, as amended, and the laws adopted to facilitate the operation thereof. [1972 ex.s. c 133 § 7.]

Reviser's note: Chapter 28B.56 RCW was adopted and ratified by the people at the November 7, 1972, general election (Referendum Bill No. 31). Governor's proclamation declaring approval of measure is dated December 7, 1972.

28B.56.080 Form, terms, conditions and manner of sale and issuance—Limitation. The state finance committee is authorized to prescribe the form, terms, conditions and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance. None of the bonds herein authorized shall be sold for less than their par value. [1972 ex.s. c 133 § 8.]

28B.56.090 Anticipation notes—Authorized—Contents—Payment. When the state finance committee has decided to issue such bonds or a portion thereof, it may, pending the issuing of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of such bonds, which notes shall be designated as "anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for such purpose shall be applied to the payment of the principal of and interest on such anticipation notes which have been issued. The bonds and notes shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal and interest when due. The state finance committee may authorize the use of a printed facsimile of the seal of the state of Washington in the issuance of bonds and notes. [1972 ex.s. c 133 § 9.]

28B.56.100 Community college capital improvements bond redemption fund of 1972—Created—Tax receipts in—Use of funds from. The community college capital improvements bond redemption fund of 1972 is created in the state treasury. This fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by this chapter. The state finance committee shall, on or before June 30 of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet bond retirement and interest requirements, and on July 1 of each year, the state treasurer shall deposit such amount in the community college capital improvements bond redemption fund of 1972 from moneys transmitted to the state treasurer by the department of revenue and certified by the department of revenue to be retail sales tax collections. Such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, except that portion thereof heretofore pledged for the payment of bond principal and interest.

The owner and holder of each of the bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed herein. [1972 ex.s. c 133 § 10.]

28B.56.110 Legislature may provide additional means of revenue. The legislature may provide additional means for raising moneys for the payment of the principal and interest of the bonds authorized herein, and this chapter shall not be deemed to provide an exclusive method for such payment. [1972 ex.s. c 133 § 11.]

28B.56.120 Bonds as legal investment for state and municipal corporation funds. The bonds herein authorized shall be a legal investment for all state funds or for funds

under state control and for all funds of municipal corporations. [1972 ex.s. c 133 § 12.]

Chapter 28B.57

1975 COMMUNITY COLLEGE SPECIAL CAPITAL PROJECTS BOND ACT

Sections

- 28B.57.010 State general obligation bonds in lieu of building, limited obligation bonds—"Community college capital projects" defined.
- 28B.57.020 Amount of bonds authorized.
- 28B.57.030 Projects enumerated.
- 28B.57.040 Bond anticipation notes, authorized, payment—Form, terms, conditions, sale and covenants of bonds and notes.
- 28B.57.050 Disposition of proceeds—1975 community college capital construction account, use.
- 28B.57.060 Administration of proceeds from bonds and notes.
- 28B.57.070 1975 community college capital construction bond retirement fund—Created—Purpose.
- 28B.57.080 Moneys to be transferred from community college account to state general fund—Limitation.
- 28B.57.090 Bonds as legal investment for public funds.
- 28B.57.100 Prerequisite to bond issuance.

28B.57.010 State general obligation bonds in lieu of building, limited obligation bonds—"Community college capital projects" defined. The legislature has previously approved by its appropriation of funds from time to time, certain capital projects for the state community colleges, which appropriations were to be funded primarily by the issuance of building, limited obligation bonds by the *state board for community college education (hereinafter in this chapter called the "college board"). In order that any future appropriations for such approved capital projects may be funded on terms most advantageous to the state, it is hereby determined to be in the public interest to provide for the issuance of state general obligation bonds, in lieu of building, limited obligation bonds.

For purposes of this chapter, "community college capital projects" means the construction, reconstruction, erection, equipping, maintenance, demolition and major alteration of buildings and other capital assets owned by the *state board for community college education in the name of the state of Washington, and the acquisition of sites, rights of way, easements, improvements or appurtenances in relation thereto. [1985 c 390 § 61; 1975 1st ex.s. c 65 § 1.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Severability—1975 1st ex.s. c 65: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances, shall in no way be affected." [1975 1st ex.s. c 65 § 13.]

28B.57.020 Amount of bonds authorized. For the purpose of providing funds for carrying out the community college capital projects described in RCW 28B.57.030, and to fund indebtedness and expenditures heretofore incurred for such projects, the state finance committee is hereby authorized to issue from time to time general obligation bonds of the state of Washington in the aggregate principal amount of nine million dollars, or so much thereof as may be required for such purposes, to be paid and discharged within thirty

years of the date or dates of issuance, in accordance with Article VIII, section 1 of the Constitution of the state of Washington. [1975 1st ex.s. c 65 § 2.]

Severability—1975 1st ex.s. c 65: See note following RCW 28B.57.010.

28B.57.030 Projects enumerated. The community college capital projects referred to in RCW 28B.57.020 are (1) at Walla Walla Community College, for construction of vocational facilities, Phase II, at a cost of not more than two million two thousand three hundred ninety-nine dollars and (2) at Seattle Central Community College, for remodeling of Edison South High School, at a cost of not more than six million nine hundred ninety-seven thousand six hundred and one dollars, which projects were to be primarily funded, but have not heretofore been sufficiently funded, from the proceeds of general tuition fee, limited obligation bonds issued by the college board. [1975 1st ex.s. c 65 § 3.]

Severability—1975 1st ex.s. c 65: See note following RCW 28B.57.010.

28B.57.040 Bond anticipation notes, authorized, payment—Form, terms, conditions, sale and covenants of bonds and notes. When the state finance committee has determined to issue such general obligation bonds or a portion thereof, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of such bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for the payment of principal and redemption premium, if any, of and interest on such notes shall be applied thereto when such bonds are issued.

The state finance committee is authorized to prescribe the form, terms, conditions and covenants of the bonds and/or the bond anticipation notes, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each such bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and the interest thereon when due. [1975 1st ex.s. c 65 § 4.]

Severability—1975 1st ex.s. c 65: See note following RCW 28B.57.010.

28B.57.050 Disposition of proceeds—1975 community college capital construction account, use. 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 or the college board may direct the state treasurer to deposit therein, shall be deposited in the 1975 community college capital construction account, hereby created in the state treasury. [1991 sp.s. c 13 § 51; 1985 c 57 § 18; 1975 1st ex.s. c 65 § 5.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

Severability—1975 1st ex.s. c 65: See note following RCW 28B.57.010.

Disposition of proceeds from sale of bonds and notes—1977 community college capital projects bond act: RCW 28B.59B.040.

28B.57.060 Administration of proceeds from bonds and notes. All proceeds of the bonds authorized in this chapter shall be administered by the college board exclusively for the purposes specified in this chapter and for the payment of the expenses incurred in connection with the sale and issuance of such bonds and bond anticipation notes. [1975 1st ex.s. c 65 § 6.]

Severability—1975 1st ex.s. c 65: See note following RCW 28B.57.010.

28B.57.070 1975 community college capital construction bond retirement fund—Created—Purpose. The 1975 community college capital construction bond retirement fund is hereby created in the state treasury for the purpose of the payment of principal of and interest on the bonds authorized to be issued pursuant to this chapter.

The state finance committee, on or before June 30 of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and interest coming due on such bonds. On July 1st of each such year the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1975 community college capital construction bond retirement fund an amount equal to the amount certified by the state finance committee. [1975 1st ex.s. c 65 § 7.]

Severability—1975 1st ex.s. c 65: See note following RCW 28B.57.010.

Disposition of proceeds from sale of bonds and notes—1977 community college capital projects bond act: RCW 28B.59B.040.

28B.57.080 Moneys to be transferred from community college account to state general fund—Limitation. On or before June 30 of each year, the college board shall accumulate in the community college capital projects account from building fees and other moneys deposited therein, an amount at least equal to the amount required in the next succeeding twelve months for the payment of principal of and interest on the bonds issued pursuant to this chapter. On July 1st of each such year, the state treasurer shall withdraw said sum from the community college capital projects account and deposit said sum in the state general fund: PROVIDED, That withdrawal of building fees from the community college capital projects account for deposit into the state general fund pursuant to the provisions of this section shall be made only after provision has first been made for the payment in full of the principal of and interest on all outstanding building, limited obligation bonds of the college board coming due in the twelve months next succeeding July 1 of each such year, and for any reserve account deposits necessary for such outstanding bonds in the same period. [1985 c 390 § 63; 1975 1st ex.s. c 65 § 8.]

Severability—1975 1st ex.s. c 65: See note following RCW 28B.57.010.

28B.57.090 Bonds as legal investment for public funds. The bonds authorized in this chapter shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1975 1st ex.s. c 65 § 9.]

Severability—1975 1st ex.s. c 65: See note following RCW 28B.57.010.

28B.57.100 Prerequisite to bond issuance. The bonds authorized in this chapter shall be issued only after the college board has certified to the state finance committee that its projected building fees revenue shall be adequate, based upon reasonable projections of student enrollments, for the college board to meet the requirements of RCW 28B.57.080, during the life of the bonds proposed to be issued. [1985 c 390 § 62; 1975 1st ex.s. c 65 § 10.]

Severability—1975 1st ex.s. c 65: See note following RCW 28B.57.010.

Chapter 28B.58

1975 COMMUNITY COLLEGE GENERAL CAPITAL PROJECTS BOND ACT

Sections

- 28B.58.010 State general obligation bonds in lieu of building, limited obligation bonds—"Community college capital projects" defined—Consideration for minority contractors on projects so funded.
- 28B.58.020 Amount of bonds authorized.
- 28B.58.030 Bond anticipation notes, authorized, payment—Form, term, conditions, sale and covenants of bonds and notes.
- 28B.58.040 Disposition of proceeds from sale of bonds and notes.
- 28B.58.050 Administration of proceeds from bonds and notes.
- 28B.58.060 Payment of principal and interest on bonds.
- 28B.58.070 Moneys to be transferred from community college account to state general fund—Limitation.
- 28B.58.080 Bonds as legal investment for public funds.
- 28B.58.090 Prerequisite to bond issuance.

28B.58.010 State general obligation bonds in lieu of building, limited obligation bonds—"Community college capital projects" defined—Consideration for minority contractors on projects so funded. The legislature has approved by its appropriation of funds from time to time, capital projects for the state community colleges, which appropriations have been funded primarily by the issuance of building, limited obligation bonds by the *state board for community college education (hereinafter in this chapter called the "college board"). In order that any future appropriations for such approved capital projects may be funded on terms most advantageous to the state, it is hereby determined to be in the public interest to provide for the issuance of state general obligation bonds, in lieu of building, limited obligation bonds.

For purposes of this chapter, "community college capital projects" means the construction, reconstruction, erection, equipping, maintenance, demolition and major alteration of buildings and other capital assets owned by the *state board for community college education in the name of the state of Washington, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances in relation thereto. It is the intent of the legislature that in any decision to contract for capital projects funded as the result of this chapter, full and fair consideration shall be given to minority contractors. [1985 c 390 § 64; 1975 1st ex.s. c 236 § 1.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Severability—1975 1st ex.s. c 236: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances, shall in no way be affected." [1975 1st ex.s. c 236 § 11.]

28B.58.020 Amount of bonds authorized. For the purpose of financing the community college capital projects as determined by the legislature in its capital appropriations act, chapter 276, Laws of 1975 1st ex. sess., the state finance committee is hereby authorized to issue from time to time general obligation bonds of the state of Washington in the aggregate principal amount of fourteen million seven hundred seventy-six thousand dollars, or so much thereof as may be required for such purposes, to be paid and discharged within thirty years of the date or dates of issuance, in accordance with Article VIII, section 1 of the Constitution of the state of Washington. [1975 1st ex.s. c 236 § 2.]

Severability—1975 1st ex.s. c 236: See note following RCW 28B.58.010.

28B.58.030 Bond anticipation notes, authorized, payment—Form, term, conditions, sale and covenants of bonds and notes. When the state finance committee has determined to issue such general obligation bonds, or a portion thereof, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of such bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for the payment of principal and redemption premium, if any, of and interest on such notes shall be applied thereto when such bonds are issued.

The state finance committee is authorized to prescribe the form, terms, conditions and covenants of the bonds and/or the bond anticipation notes, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each such bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and the interest thereon when due. [1975 1st ex.s. c 236 § 3.]

Severability—1975 1st ex.s. c 236: See note following RCW 28B.58.010.

28B.58.040 Disposition of proceeds from sale of bonds and notes. Except for that portion of the proceeds required to pay bond anticipation notes pursuant to RCW 28B.58.030, the proceeds from the sale of the bonds and/or bond anticipation notes authorized in this chapter, together with all grants, donations, transferred funds, and all other moneys which the state finance committee or the college board may direct the state treasurer to deposit therein, shall be deposited in the 1975 community college capital construction account in the state general fund. [1975 1st ex.s. c 236 § 4.]

Severability—1975 1st ex.s. c 236: See note following RCW 28B.58.010.

1975 community college capital construction account, created, use: RCW 28B.57.050.

28B.58.050 Administration of proceeds from bonds and notes. Subject to legislative appropriation, all proceeds of the bonds authorized in this chapter shall be administered by the college board exclusively for the purposes specified in this chapter and for the payment of the expenses incurred

in connection with the sale and issuance of such bonds and bond anticipation notes. [1975 1st ex.s. c 236 § 5.]

Severability—1975 1st ex.s. c 236: See note following RCW 28B.58.010.

28B.58.060 Payment of principal and interest on bonds. The 1975 community college capital construction bond retirement fund in the state treasury shall be used for the purpose of the payment of principal of and interest on the bonds authorized to be issued pursuant to this chapter.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and interest coming due on such bonds. On July 1st of each such year the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1975 community college capital construction bond retirement fund, an amount equal to the amount certified by the state finance committee. [1975 1st ex.s. c 236 § 6.]

Severability—1975 1st ex.s. c 236: See note following RCW 28B.58.010.

1975 community college capital construction bond retirement fund—Created—Purpose: RCW 28B.57.070.

28B.58.070 Moneys to be transferred from community college account to state general fund—Limitation. On or before June 30th of each year, the college board shall accumulate in the community college capital projects account from building fees and other moneys deposited therein, an amount at least equal to the amount required in the next succeeding twelve months for the payment of principal of and interest on the bonds issued pursuant to this chapter. On July 1st of each such year, the state treasurer shall withdraw said sum from the community college capital projects account and deposit said sum in the state general fund: PROVIDED, That withdrawal of building fees from the community college capital projects account for deposit into the general fund pursuant to the provisions of this section shall be made only after provision has first been made for the payment in full of the principal of and interest on all outstanding building, limited obligation bonds of the college board coming due in the twelve months next succeeding July 1st of each such year, and for any reserve account deposits necessary for such outstanding bonds in the same period. [1985 c 390 § 65; 1975 1st ex.s. c 236 § 7.]

Severability—1975 1st ex.s. c 236: See note following RCW 28B.58.010.

28B.58.080 Bonds as legal investment for public funds. The bonds authorized in this chapter shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1975 1st ex.s. c 236 § 8.]

Severability—1975 1st ex.s. c 236: See note following RCW 28B.58.010.

28B.58.090 Prerequisite to bond issuance. The bonds authorized in this chapter shall be issued only after the college board has certified to the state finance committee that its projected building fees revenue shall be adequate,

based upon reasonable projections of student enrollments, for the college board to meet the requirements of RCW 28B.58.070, during the life of the bonds proposed to be issued. [1985 c 390 § 66; 1975 1st ex.s. c 236 § 9.]

Severability—1975 1st ex.s. c 236: See note following RCW 28B.58.010.

Chapter 28B.59

1976 COMMUNITY COLLEGE CAPITAL PROJECTS BOND ACT

Sections

28B.59.010	Purpose—"Community college capital projects" defined.
28B.59.020	Amount of general obligation bonds authorized.
28B.59.030	Bond anticipation notes, authorized, payment—Form, term, conditions, sale and covenants of bonds and notes.
28B.59.040	Disposition of proceeds from sale of bonds and notes.
28B.59.050	Administration of the proceeds from bonds and notes.
28B.59.060	Payment of the principal and interest on bonds.
28B.59.070	Moneys to be transferred from community college account to state general fund—Limitation.
28B.59.080	Bonds as legal investment for public funds.
28B.59.090	Prerequisite to bond issuance.

28B.59.010 Purpose—"Community college capital projects" defined. The legislature has approved by its appropriation of funds from time to time, capital projects for the state community colleges, which appropriations have been funded primarily by the issuance of building, limited obligation bonds by the *state board for community college education (hereinafter in this chapter called the "college board"). In order that any future appropriations for such approved capital projects may be funded on terms most advantageous to the state, it is hereby determined to be in the public interest to provide for the issuance of state general obligation bonds, in lieu of building, limited obligation bonds.

For purposes of this chapter, "community college capital projects" means the construction, reconstruction, erection, equipping, maintenance, demolition and major alteration of buildings and other capital assets owned by the *state board for community college education in the name of the state of Washington, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances in relation thereto. [1985 c 390 § 67; 1975-'76 2nd ex.s. c 107 § 1.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Severability—1975-'76 2nd ex.s. c 107: "If any provision of this 1976 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975-'76 2nd ex.s. c 107 § 11.]

28B.59.020 Amount of general obligation bonds authorized. For the purpose of financing the community college capital projects as determined by the legislature in its capital appropriation act, chapter 133, Laws of 1975-'76 2nd ex. sess., the state finance committee is hereby authorized to issue from time to time general obligation bonds of the state of Washington in the aggregate principal amount of twenty-six million four hundred eighty-seven thousand dollars, or so much thereof as may be required for such purposes, to be paid and discharged within thirty years of the date or dates

of issuance, in accordance with Article VIII, section 1 of the Constitution of the state of Washington. [1975-'76 2nd ex.s. c 107 § 2.]

Severability—1975-'76 2nd ex.s. c 107: See note following RCW 28B.59.010.

28B.59.030 Bond anticipation notes, authorized, payment—Form, term, conditions, sale and covenants of bonds and notes. When the state finance committee has determined to issue such general obligation bonds, or a portion thereof, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of such bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for the payment of principal of and redemption premium, if any, and interest on such notes shall be applied thereto when such bonds are issued.

The state finance committee is authorized to prescribe the form, terms, conditions and covenants of the bonds and/or the bond anticipation notes, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each such bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and the interest thereon when due. [1975-'76 2nd ex.s. c 107 § 3.]

Severability—1975-'76 2nd ex.s. c 107: See note following RCW 28B.59.010.

28B.59.040 Disposition of proceeds from sale of bonds and notes. Except for that portion of the proceeds required to pay bond anticipation notes pursuant to RCW 28B.59.030, the proceeds from the sale of the bonds and/or bond anticipation notes authorized in this chapter, together with all grants, donations, transferred funds, and all other moneys which the state finance committee or the college board may direct the state treasurer to deposit therein, shall be deposited in the 1975 community college capital construction account in the state general fund. [1975-'76 2nd ex.s. c 107 § 4.]

Severability—1975-'76 2nd ex.s. c 107: See note following RCW 28B.59.010.

28B.59.050 Administration of the proceeds from bonds and notes. Subject to legislative appropriation, all proceeds of the bonds authorized in this chapter shall be administered by the college board exclusively for the purposes specified in this chapter and for the payment of the expenses incurred in connection with the sale and issuance of such bonds and bond anticipation notes. [1975-'76 2nd ex.s. c 107 § 5.]

Severability—1975-'76 2nd ex.s. c 107: See note following RCW 28B.59.010.

28B.59.060 Payment of the principal and interest on bonds. The 1975 community college capital construction bond retirement fund in the state treasury shall be used for the purpose of the payment of the principal of and interest on the bonds authorized to be issued pursuant to this chapter.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and interest coming due on such bonds. On July 1st of each such year the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1975 community college capital construction bond retirement fund, an amount equal to the amount certified by the state finance committee. [1975-'76 2nd ex.s. c 107 § 6.]

Severability—1975-'76 2nd ex.s. c 107: See note following RCW 28B.59.010.

28B.59.070 Moneys to be transferred from community college account to state general fund—Limitation. On or before June 30th of each year, the college board shall accumulate in the community college capital projects account from building fees and other moneys deposited therein, an amount at least equal to the amount required in the next succeeding twelve months for the payment of principal of and interest on the bonds issued pursuant to this chapter. On July 1st of each such year, the state treasurer shall withdraw said sum from the community college capital projects account and deposit said sum in the state general fund: PROVIDED, That withdrawal of building fees from the community college capital projects account for deposit into the general fund pursuant to the provisions of this section shall be made only after provision has first been made for the payment in full of the principal of and interest on all outstanding building, limited obligation bonds of the college board coming due in the twelve months next succeeding July 1st of each such year, and for any reserve account deposits necessary for such outstanding bonds in the same period. [1985 c 390 § 68; 1975-'76 2nd ex.s. c 107 § 7.]

Severability—1975-'76 2nd ex.s. c 107: See note following RCW 28B.59.010.

28B.59.080 Bonds as legal investment for public funds. The bonds authorized in this chapter shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1975-'76 2nd ex.s. c 107 § 8.]

Severability—1975-'76 2nd ex.s. c 107: See note following RCW 28B.59.010.

28B.59.090 Prerequisite to bond issuance. The bonds authorized in this chapter shall be issued only after the college board has certified to the state finance committee that its projected building fees revenue shall be adequate, based upon reasonable projections of student enrollments, for the college board to meet the requirements of RCW 28B.59.070, during the life of the bonds proposed to be issued. [1985 c 390 § 69; 1975-'76 2nd ex.s. c 107 § 9.]

Severability—1975-'76 2nd ex.s. c 107: See note following RCW 28B.59.010.

Chapter 28B.59B
1977 COMMUNITY COLLEGE CAPITAL
PROJECTS BOND ACT

Sections

- 28B.59B.010 Purpose—Bonds authorized—Amount—Conditions.
 28B.59B.020 Bond anticipation notes—Authorized—Bond proceeds to apply to payment on.
 28B.59B.030 Form, terms, conditions, sale, redemption and covenants of bonds and notes—Pledge of state's credit.
 28B.59B.040 Disposition of proceeds from sale of bonds and notes.
 28B.59B.050 Administration of proceeds from bonds and notes.
 28B.59B.060 Payment of the principal and interest on bonds and notes.
 28B.59B.070 Moneys to be transferred from community college account to state general fund.
 28B.59B.080 Bonds as legal investment for public funds.
 28B.59B.090 Prerequisite to bond issuance.

28B.59B.010 Purpose—Bonds authorized—Amount—Conditions. For the purpose of financing the construction, reconstruction, erection, equipping, maintenance, demolition and major alteration of buildings and other capital assets owned by the *state board for community college education in the name of the state of Washington, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances in relation thereto as determined by the legislature in its capital appropriations act, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of seven million five hundred thousand dollars, or so much thereof as may be required to finance such projects, and all costs incidental thereto. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution. [1977 ex.s. c 346 § 1.]

*Reviser's note: The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Severability—1977 ex.s. c 346: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 346 § 11.]

28B.59B.020 Bond anticipation notes—Authorized—Bond proceeds to apply to payment on. When the state finance committee has determined to issue such general obligation bonds, or a portion thereof, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of such bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for the payment of principal of and redemption premium, if any, and interest on such notes shall be applied thereto when such bonds are issued. [1977 ex.s. c 346 § 2.]

Severability—1977 ex.s. c 346: See note following RCW 28B.59B.010.

28B.59B.030 Form, terms, conditions, sale, redemption and covenants of bonds and notes—Pledge of state's credit. The state finance committee is authorized to determine the aggregate amounts, dates, form, terms,

conditions, denominations, interest rates, maturities, rights and manner of redemption prior to maturity, registration privileges, place(s) of payment and covenants of such bonds and/or the bond anticipation notes, the time or times of sale of all or any portion of them, and the conditions and manner of their sale, issuance and redemption.

Each such bond and bond anticipation note shall state that it is a general obligation of the state of Washington, shall contain a pledge of the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain the state's unconditional promise to pay such principal and interest as the same shall become due. [1977 ex.s. c 346 § 3.]

Severability—1977 ex.s. c 346: See note following RCW 28B.59B.010.

28B.59B.040 Disposition of proceeds from sale of bonds and notes. The proceeds from the sale of the bonds and/or bond anticipation notes authorized in this chapter, together with all grants, donations, transferred funds and all other moneys which the state finance committee or the college board may direct the state treasurer to deposit therein, shall be deposited in the 1975 community college capital construction account in the state general fund: **PROVIDED**, That such portion of the proceeds of the sale of such bonds as may be required for the payment of the principal of and interest on any outstanding bond anticipation notes, together with accrued interest on the bonds received from the purchasers upon their delivery, shall be deposited in the 1975 community college capital construction bond retirement fund. [1977 ex.s. c 346 § 4.]

Severability—1977 ex.s. c 346: See note following RCW 28B.59B.010.

1975 Community college capital construction account—Created—Use: RCW 28B.57.050.

1975 Community college capital construction bond retirement fund—Created—Purpose: RCW 28B.57.070.

28B.59B.050 Administration of proceeds from bonds and notes. Subject to legislative appropriation, all principal proceeds of the bonds and/or bond anticipation notes authorized in this chapter shall be administered by the college board exclusively for the purposes specified in this chapter and for the payment of the expenses incurred in connection with their sale and issuance. [1977 ex.s. c 346 § 5.]

Severability—1977 ex.s. c 346: See note following RCW 28B.59B.010.

28B.59B.060 Payment of the principal and interest on bonds and notes. The 1975 community college capital construction bond retirement fund in the state treasury shall be used for the purpose of the payment of the principal of and redemption premium, if any, and interest on the bonds and/or the bond anticipation notes authorized to be issued pursuant to this chapter.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and interest coming due on such bonds. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the

state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1975 community college capital construction bond retirement fund an amount equal to the amount certified by the state finance committee to be due on such payment date. [1977 ex.s. c 346 § 6.]

Severability—1977 ex.s. c 346: See note following RCW 28B.59B.010.

28B.59B.070 Moneys to be transferred from community college account to state general fund. On or before June 30th of each year, the college board shall accumulate in the community college capital projects account from building fees and other moneys deposited therein, an amount at least equal to the amount required in the next succeeding twelve months for the payment of principal of and interest on the bonds issued pursuant to this chapter. Not less than thirty days prior to the date on which any such interest or principal and interest payment is due, the state treasurer shall withdraw said sum from the community college capital projects account and deposit said sum in the state general fund. [1985 c 390 § 70; 1977 ex.s. c 346 § 7.]

Severability—1977 ex.s. c 346: See note following RCW 28B.59B.010.

28B.59B.080 Bonds as legal investment for public funds. The bonds authorized in this chapter shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1977 ex.s. c 346 § 8.]

Severability—1977 ex.s. c 346: See note following RCW 28B.59B.010.

28B.59B.090 Prerequisite to bond issuance. The bonds authorized in this chapter shall be issued only after the college board has certified to the state finance committee that its anticipated general tuition fee revenue shall be adequate, based upon reasonable projections of student enrollments, for the college board to meet the requirements of RCW 28B.59B.070 during the life of the bonds proposed to be issued. [1977 ex.s. c 346 § 9.]

Severability—1977 ex.s. c 346: See note following RCW 28B.59B.010.

Chapter 28B.59C

1979 COMMUNITY COLLEGE CAPITAL PROJECTS BOND ACT

Sections

- 28B.59C.010 Purpose—Bonds authorized—Amount—Conditions.
- 28B.59C.020 Bond anticipation notes—Authorized—Bond proceeds to apply to payment on.
- 28B.59C.030 Form, terms, conditions, sale, redemption and covenants of bonds and notes—Pledge of state's credit.
- 28B.59C.040 Disposition of proceeds from sale of bonds and notes.
- 28B.59C.050 Administration of proceeds from bonds and notes.
- 28B.59C.060 Payment of principal and interest on bonds and notes.
- 28B.59C.070 Moneys to be transferred from community college account to state general fund.
- 28B.59C.080 Bonds as legal investment for public funds.

28B.59C.010 Purpose—Bonds authorized—Amount—Conditions. For the purpose of financing the construction, reconstruction, erection, equipping, maintenance, demolition, and major alteration of buildings and other capital assets owned by the *state board for community college education in the name of the state of Washington, and the acquisition of sites, rights of way, easements, improvements, or appurtenances in relation thereto as determined by the legislature in its capital appropriations act, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of twenty-four million dollars, or so much thereof as may be required, to finance such projects, and all costs incidental thereto. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution. [1979 ex.s. c 226 § 1.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Effective date—1979 ex.s. c 226: "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 [June 15, 1979]." [1979 ex.s. c 226 § 13.]

Severability—1979 ex.s. c 226: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 226 § 12.]

28B.59C.020 Bond anticipation notes—Authorized—Bond proceeds to apply to payment on. When the state finance committee has determined to issue the general obligation bonds, or a portion thereof, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of the bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of the bonds as may be required for the payment of principal of and redemption premium, if any, and interest on the notes shall be applied thereto when the bonds are issued. [1979 ex.s. c 226 § 2.]

Effective date—Severability—1979 ex.s. c 226: See notes following RCW 28B.59C.010.

28B.59C.030 Form, terms, conditions, sale, redemption and covenants of bonds and notes—Pledge of state's credit. The state finance committee is authorized to determine the aggregate amounts, dates, form, terms, conditions, denominations, interest rates, maturities, rights and manner of redemption prior to maturity, registration privileges, place(s) of payment and covenants of the bonds and/or the bond anticipation notes, the time or times of sale of all or any portion of them, and the conditions and manner of their sale, issuance, and redemption.

Each bond and bond anticipation note shall state that it is a general obligation of the state of Washington, shall contain a pledge of the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain the state's unconditional promise to pay the principal and interest as the same shall become due. [1979 ex.s. c 226 § 3.]

Effective date—Severability—1979 ex.s. c 226: See notes following RCW 28B.59C.010.

28B.59C.040 Disposition of proceeds from sale of bonds and notes. The proceeds from the sale of the bonds and/or bond anticipation notes authorized in this chapter, together with all grants, donations, transferred funds, and all other moneys which the state finance committee or the college board may direct the state treasurer to deposit therein, shall be deposited in the 1975 community college capital construction account in the state general fund: PROVIDED, That such portion of the proceeds of the sale of the bonds as may be required for the payment of the principal of and interest on any outstanding bond anticipation notes, together with accrued interest and premium, if any, on the bonds received from the purchasers upon their delivery, shall be deposited in the 1975 community college capital construction bond retirement fund. [1979 ex.s. c 226 § 4.]

Effective date—Severability—1979 ex.s. c 226: See notes following RCW 28B.59C.010.

28B.59C.050 Administration of proceeds from bonds and notes. Subject to legislative appropriation, all principal proceeds of the bonds and/or bond anticipation notes authorized in this chapter shall be administered by the college board exclusively for the purposes specified in this chapter and for the payment of the expenses incurred in connection with their sale and issuance. [1979 ex.s. c 226 § 5.]

Effective date—Severability—1979 ex.s. c 226: See notes following RCW 28B.59C.010.

28B.59C.060 Payment of principal and interest on bonds and notes. The 1975 community college capital construction bond retirement fund in the state treasury shall be used for the purpose of the payment of the principal of and redemption premium, if any, and interest on the bonds and/or the bond anticipation notes authorized to be issued under this chapter.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and interest coming due on 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 1975 community college capital construction bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date. [1979 ex.s. c 226 § 6.]

Effective date—Severability—1979 ex.s. c 226: See notes following RCW 28B.59C.010.

28B.59C.070 Moneys to be transferred from community college account to state general fund. On or before June 30th of each year, the college board shall accumulate in the community college capital projects account from building fees and other moneys deposited therein, an amount at least equal to the amount required in the next succeeding twelve months for the payment of principal of and interest on the bonds issued under this chapter. 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 the sum from the community college capital projects account and deposit the sum in the state general fund. [1985 c 390 § 71; 1979 ex.s. c 226 § 7.]

Effective date—Severability—1979 ex.s. c 226: See notes following RCW 28B.59C.010.

28B.59C.080 Bonds as legal investment for public funds. The bonds authorized in this chapter shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1979 ex.s. c 226 § 8.]

Effective date—Severability—1979 ex.s. c 226: See notes following RCW 28B.59C.010.

Chapter 28B.59D

1981 COMMUNITY COLLEGE CAPITAL PROJECTS BOND ACT

Sections

28B.59D.010 Purpose—Bonds authorized—Amount—Condition.

28B.59D.020 Bonds to pledge credit of state, promise to pay.

28B.59D.030 Disposition of proceeds from sale of bonds.

28B.59D.040 Administration and expenditure of proceeds from sale of bonds—Condition.

28B.59D.050 Existing fund utilized for payment of principal and interest—Committee and treasurer's duties.

28B.59D.060 Transfer of account moneys to general fund—College board and treasurer's duties.

28B.59D.070 Bonds as legal investment for public funds.

28B.59D.010 Purpose—Bonds authorized—Amount—Condition. For the purpose of financing the construction, reconstruction, erection, equipping, maintenance, demolition, and major alteration of buildings and other capital assets owned by the *state board for community college education in the name of the state of Washington, and the acquisition of sites, rights of way, easements, improvements, or appurtenances in relation thereto as determined by the legislature in its capital appropriations act, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of seven million three hundred thousand dollars, or so much thereof as may be required, to finance such projects, and all costs incidental thereto. No bonds authorized by RCW 28B.59D.010 through 28B.59D.070 may be offered for sale without prior legislative appropriation. [1981 c 237 § 1.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Severability—1981 c 237: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 237 § 8.] For codification of 1981 c 237, see Codification Tables, Volume 0.

28B.59D.020 Bonds to pledge credit of state, promise to pay. Each bond shall state that it is a general obligation of the state of Washington, shall contain a pledge of the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain the state's unconditional promise to pay the principal and interest as the same shall become due. [1981 c 237 § 2.]

Severability—1981 c 237: See note following RCW 28B.59D.010.

28B.59D.030 Disposition of proceeds from sale of bonds. The proceeds from the sale of the bonds authorized in RCW 28B.59D.010 through 28B.59D.070, together with all grants, donations, transferred funds, and all other moneys which the state finance committee or the college board may direct the state treasurer to deposit therein, shall be deposited in the 1975 community college capital construction account in the state general fund. [1981 c 237 § 3.]

Severability—1981 c 237: See note following RCW 28B.59D.010.

28B.59D.040 Administration and expenditure of proceeds from sale of bonds—Condition. Subject to legislative appropriation, all principal proceeds of the bonds authorized in RCW 28B.59D.010 through 28B.59D.070 shall be administered by the college board exclusively for the purposes specified in RCW 28B.59D.010 through 28B.59D.070 and for the payment of the expenses incurred in connection with their sale and issuance. [1981 c 237 § 4.]

Severability—1981 c 237: See note following RCW 28B.59D.010.

28B.59D.050 Existing fund utilized for payment of principal and interest—Committee and treasurer's duties. The 1975 community college capital construction bond retirement fund in the state treasury shall be used for the purpose of the payment of the principal of and redemption premium, if any, and interest on the bonds authorized to be issued under RCW 28B.59D.010 through 28B.59D.070.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and interest coming due on 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 1975 community college capital construction bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date. [1981 c 237 § 5.]

Severability—1981 c 237: See note following RCW 28B.59D.010.

28B.59D.060 Transfer of account moneys to general fund—College board and treasurer's duties. (1) On or before June 30th of each year, the college board shall accumulate in the community college capital projects account from building fees and other moneys deposited therein, to the extent the fees and moneys are available, an amount at least equal to the amount required in the next succeeding twelve months for the payment of principal of and interest on the bonds issued under RCW 28B.59D.010 through 28B.59D.070. 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 this amount, to the extent available, from the community college capital projects account and deposit it in the state general fund.

(2) The state treasurer shall make withdrawals from the community college capital projects account for deposit in the general fund of amounts equal to debt service payments on state general obligation bonds issued for community college purposes pursuant to Title 28B RCW only to the extent that funds are or become actually available in the account from time to time. Any unpaid debt service payments shall be a

continuing obligation against the community college capital projects account until paid. Beginning with the 1979-1981 biennium, the *state board for community college education need not accumulate any specific amount in the community college capital projects account for purposes of these withdrawals by the state treasurer. [1985 c 390 § 72; 1981 c 237 § 6.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Severability—1981 c 237: See note following RCW 28B.59D.010.

28B.59D.070 Bonds as legal investment for public funds. The bonds authorized in RCW 28B.59D.010 through 28B.59D.060 shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1981 c 237 § 7.]

Severability—1981 c 237: See note following RCW 28B.59D.010.

Chapter 28B.63

COMMERCIAL ACTIVITIES BY INSTITUTIONS OF HIGHER EDUCATION

Sections

- 28B.63.010 Intent.
- 28B.63.020 Definitions.
- 28B.63.030 Development of policies and mechanisms for defining and reviewing commercial activities.
- 28B.63.040 Criteria for developing policies.
- 28B.63.050 Programs and activities exempt from chapter.

28B.63.010 Intent. The primary mission of institutions of higher education is the creation and dissemination of knowledge. Institutions of higher education must be mindful that in providing goods and services for fees, they may be competing with local private businesses.

It is the intent of the legislature to require institutions of higher education to define the legitimate purposes under which commercial activities may be approved, and to establish a mechanism for review of such activities. [1987 c 97 § 1.]

28B.63.020 Definitions. For the purposes of this chapter:

- (1) "Institutions of higher education" or "institutions" mean those institutions as defined in RCW 28B.10.016(4).
- (2) "Commercial activity" means an activity which provides a product or service for a fee which could be obtained from a commercial source.
- (3) "Fees" means any fees or charges imposed for goods, services, or facilities. [1987 c 97 § 2.]

28B.63.030 Development of policies and mechanisms for defining and reviewing commercial activities. Institutions of higher education in consultation with local business organizations and representatives of the small business community are required to develop:

- (1) Comprehensive policies that define the legitimate purposes under which the institutions shall provide goods, services, or facilities that are practically available from private businesses;

(2) A mechanism for reviewing current and proposed commercial activities to ensure that activities are consistent with institutional policies; and

(3) A mechanism for receiving, reviewing, and responding to enquiries from private businesses about commercial activities carried on by institutions of higher education. [1987 c 97 § 3.]

28B.63.040 Criteria for developing policies. (1) The following criteria shall be considered in developing policies in regard to providing goods, services, or facilities to persons other than students, faculty, staff, patients, and invited guests:

(a) The goods, services, or facilities represent a resource which is substantially and directly related to the institution's instructional, research, or public service mission, which is not practically available in the private marketplace and for which there is a demand from the external community.

(b) Fees charged for the goods, services, or facilities shall take into account the full direct and indirect costs, overhead, and the price of such items in the private marketplace.

(2) The following criteria shall be considered in developing policies in regard to providing goods, services, or facilities to students, faculty, staff, patients, and invited guests:

(a) The goods, services, or facilities are substantially and directly related to the institution's instructional, research, or public service mission.

(b) Provision of the goods, services, or facilities on campus represents a special convenience to and supports the campus community, or facilitates extracurricular, public service, or on-campus residential life.

(c) Fees charged for the goods, services, or facilities shall take into account the full direct and indirect costs, including overhead.

(d) The adequacy of security procedures to ensure that the goods, services, or facilities are provided only to persons who are students, faculty, staff, patients, or invited guests. [1987 c 97 § 4.]

28B.63.050 Programs and activities exempt from chapter. This chapter shall not apply to the initiation of or changes in academic or vocational programs of instruction in the institutions' regular, extension, evening, or continuing education programs, or the fees therefor, fees for services provided in the practicum aspects of instruction, or research programs, and in extracurricular or residential life programs, including residence halls, food services, athletic and recreational programs, and performing arts programs. [1987 c 97 § 5.]

Chapter 28B.65

HIGH-TECHNOLOGY EDUCATION AND TRAINING

Sections

- 28B.65.010 Legislative findings.
 28B.65.020 Definitions.
 28B.65.030 Washington state high-technology education and training program established—Goals.

- 28B.65.040 Washington high-technology coordinating board created—Members—Travel expenses (as amended by 1985 c 370).
 28B.65.040 Washington high-technology coordinating board created—Members—Travel expenses (as amended by 1985 c 381).
 28B.65.050 Board—Duties—Rules—Termination of board (as amended by 1985 c 370).
 28B.65.050 Board—Duties—Rules—Termination of board (as amended by 1985 c 381).
 28B.65.060 Board—Staff support.
 28B.65.070 Board—Solicitation of private and federal support, gifts, conveyances, etc.
 28B.65.080 Consortium and baccalaureate degree training programs—Board recommendations—Requirements—Coordination.
 28B.65.090 Masters and doctorate level degrees in technology at University of Washington authorized.
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 28B.65.100 Masters and doctorate level degrees in technology at Washington State University authorized.
 28B.65.110 State-wide off-campus telecommunications system—Establishment by Washington State University for education in high-technology fields.
 28B.65.900 Short title—1983 1st ex.s. c 72.
 28B.65.905 Effective date—1983 1st ex.s. c 72.

28B.65.010 Legislative findings. The legislature finds that:

(1) A coordinated state policy is needed to stimulate the education and training of individuals in high-technology fields, in order to improve productivity, strengthen the state's competitive position, and reindustrialize declining areas;

(2) The Washington high-technology education and training program will give persons from all backgrounds opportunities to pursue training and education programs leading to baccalaureate and graduate degrees consistent with present and future needs of high-technology industries;

(3) Incentives to stimulate increased collaboration between community colleges, regional universities, and the state universities and private-sector industrial, commercial, and labor interests are essential to the development of a pool of skilled high-technology workers; and

(4) Investment in education is the most feasible method for state assistance to the high-technology industry. [1983 1st ex.s. c 72 § 2.]

28B.65.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

(1) "Board" means the high-technology coordinating board.

(2) "High technology" or "technology" includes but is not limited to the modernization, miniaturization, integration, and computerization of electronic, hydraulic, pneumatic, laser, mechanical, robotics, nuclear, chemical, telecommunication, and other technological applications to enhance productivity in areas including but not limited to manufacturing, communications, medicine, bioengineering, and commerce. [1983 1st ex.s. c 72 § 3.]

28B.65.030 Washington state high-technology education and training program established—Goals. A Washington state high-technology education and training program is hereby established. The program shall be designed to:

(1) Develop the competence needed to make Washington state a leader in high-technology fields, to increase the productivity of state industries, and to improve the state's competitiveness in regional, national, and international trade;

(2) Develop degree programs to enable students to be productive in new and emerging high-technology fields by using the resources of the state's two-year community colleges, regional universities, the University of Washington, Washington State University, and The Evergreen State College; and

(3) Provide industries in the state with a highly-skilled work force capable of producing, operating, and servicing the advancing technology needed to modernize the state's industries and to revitalize the state's economy. [1983 1st ex.s. c 72 § 4.]

28B.65.040 Washington high-technology coordinating board created—Members—Travel expenses (as amended by 1985 c 370). (1) The Washington high-technology coordinating board is hereby created.

(2) The board shall be composed of seventeen members as follows:

(a) Eleven shall be citizen members appointed by the governor, with the consent of the senate, for four-year terms. In making the appointments the governor shall ensure that a balanced geographic representation of the state is achieved and shall attempt to choose persons experienced in high-technology fields, including at least one representative of labor. Any person appointed to fill a vacancy occurring before a term expires shall be appointed only for the remainder of that term; and

(b) Six of the members shall be as follows: One representative from each of the state's two research universities, one representative of the state college and regional universities, the director for the *state system of community colleges or the director's designee, the superintendent of public instruction or the superintendent's designee, and a representative of the ~~((council for postsecondary education))~~ higher education coordinating board.

(3) Members of the board shall not receive any salary for their services, but shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060 for each day actually spent in attending to duties as a member of the board.

(4) A citizen member of the board shall not be, during the term of office, a member of the governing board of any public or private educational institution, or an employee of any state or local agency. [1985 c 370 § 86; 1984 c 66 § 1; 1983 1st ex.s. c 72 § 5.]

***Reviser's note:** The "state system of community colleges" was redesignated the "state system of community and technical colleges" by 1991 c 238 § 22.

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

28B.65.040 Washington high-technology coordinating board created—Members—Travel expenses (as amended by 1985 c 381). (1) The Washington high-technology coordinating board is hereby created.

(2) The board shall be composed of ~~((seventeen))~~ eighteen members as follows:

(a) Eleven shall be citizen members appointed by the governor, with the consent of the senate, for four-year terms. In making the appointments the governor shall ensure that a balanced geographic representation of the state is achieved and shall attempt to choose persons experienced in high-technology fields, including at least one representative of labor. Any person appointed to fill a vacancy occurring before a term expires shall be appointed only for the remainder of that term; and

(b) ~~((Six))~~ Seven of the members shall be as follows: One representative from each of the state's two research universities, one representative of the state college and regional universities, the director for the *state system of community colleges or the director's designee, the superintendent of public instruction or the superintendent's designee, ~~((and))~~ a representative of the council for postsecondary education or its statutory successor, and the director of the department of trade and economic development or the director's designee.

(3) Members of the board shall not receive any salary for their services, but shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060 for each day actually spent in attending to duties as a member of the board.

(4) A citizen member of the board shall not be, during the term of office, a member of the governing board of any public or private educational institution, or an employee of any state or local agency. [1985 c 381 § 1; 1984 c 66 § 1; 1983 1st ex.s. c 72 § 5.]

Reviser's note: (1) RCW 28B.65.040 was amended twice during the 1985 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

* (2) The "state system of community colleges" was redesignated the "state system of community and technical colleges" by 1991 c 238 § 22.

28B.65.050 Board—Duties—Rules—Termination of board (as amended by 1985 c 370). (1) The board shall oversee and coordinate the high-technology education and training program.

(2) The board shall:

(a) Determine the specific high-technology occupational fields in which technical training is needed and advise the institutions of higher education and the ~~((council for postsecondary education))~~ higher education coordinating board on their findings;

(b) Identify economic areas with high-technology industries in need of technical training critical to economic renewal or economic development and advise the institutions of higher education and the ~~((council for postsecondary education))~~ higher education coordinating board on their findings;

(c) Oversee and coordinate the Washington high-technology education and training program to insure high standards, efficiency, and effectiveness;

(d) Work cooperatively with the superintendent of public instruction to identify the skills prerequisite to the high-technology programs in the institutions of higher education;

(e) Work cooperatively with and provide any information or advice which may be requested by the ~~((council for postsecondary education))~~ higher education coordinating board during the ~~((council's))~~ board's review of new baccalaureate degree program proposals which are submitted under this chapter. Nothing in this chapter shall be construed as altering or superseding the powers or prerogatives of the ~~((council for postsecondary education))~~ higher education coordinating board over the review of new degree programs as established in ~~((RCW 28B.80.035))~~ *section 6(2) of this 1985 act; and

~~((f))~~ (f) (Prepare and submit a report to the 1984 legislature on whether or not high-technology education and training consortiums should be established between the state's community colleges and four-year colleges and universities pursuant to RCW 28B.65.080, including their geographic division and the pattern of cooperation between the community colleges and the four-year colleges and universities and shall investigate the establishment of such consortiums within existing resources; and

~~((g))~~ (g) Prepare and submit to the legislature before the first day of each regular session an annual report on the Washington high-technology education and training program including, but not limited to:

(i) An evaluation of the program;

(ii) A determination of the feasibility of expanding the program; and

(iii) Recommendations, including recommendations for further legislation as the board deems necessary.

(3) The board may adopt rules under chapter 34.05 RCW as it deems necessary to carry out the purposes of this chapter.

(4) The board shall cease to exist on June 30, 1987, unless extended by law for an additional fixed period of time. [1985 c 370 § 87; 1983 1st ex.s. c 72 § 6.]

***Reviser's note:** A literal translation of "section 6(2) of this 1985 act" would be RCW 28B.80.350(2), however, material relating to new degree programs is found in RCW 28B.80.340.

Severability—Effective dates—1985 c 370: See RCW 28B.80.911 and 28B.80.912.

28B.65.050 Board—Duties—Rules—Termination of board (as amended by 1985 c 381). (1) The board shall oversee ~~((and))~~ and evaluate high-technology ~~((education and training))~~ programs.

(2) The board shall:

(a) Determine the specific high-technology occupational fields in which technical training is needed and advise the institutions of higher education and the council for postsecondary education or its statutory successor on their findings;

(b) Identify economic areas ~~((with))~~ and high-technology industries in need of technical training and research and development critical to ~~((economic renewal or))~~ economic development and advise the institutions

of higher education and the council for postsecondary education or its statutory successor on their findings;

(c) Oversee and coordinate the Washington high-technology education and training program to insure high standards, efficiency, and effectiveness;

(d) Work cooperatively with the superintendent of public instruction to identify the skills prerequisite to the high-technology programs in the institutions of higher education;

(e) Work cooperatively with and provide any information or advice which may be requested by the council for postsecondary education or its statutory successor during the council's review of new baccalaureate degree program proposals which are submitted under this chapter. Nothing in this chapter shall be construed as altering or superseding the powers or prerogatives of the council for postsecondary education or its statutory successor over the review of new degree programs as established in *RCW 28B.80.035;

~~(f) (Prepare and submit a report to the 1984 legislature on whether or not high-technology education and training consortiums should be established between the state's community colleges and four-year colleges and universities pursuant to RCW 28B.65.080, including their geographic division and the pattern of cooperation between the community colleges and the four-year colleges and universities and shall investigate the establishment of such consortiums within existing resources))~~ Work cooperatively with the department of trade and economic development to identify the high-technology education and training needs of existing Washington businesses and businesses with the potential to locate in Washington; (and)

(g) Work towards increasing private sector participation and contributions in Washington high-technology programs;

(h) Identify and evaluate the effectiveness of state sponsored research related to high technology;

(i) Establish and maintain a plan, including priorities, to guide high-technology program development in public institutions of higher education, which plan shall include an assessment of current high-technology programs, steps to increase existing programs, new initiatives and programs necessary to promote high technology, and methods to coordinate and target high-technology programs to changing market opportunities in business and industry;

(j) Prepare and submit to the legislature before the first day of each regular session an annual report on ((the)) Washington high-technology ((education and training)) programs including, but not limited to:

(i) An evaluation of ((the)) each program;

(ii) A determination of the feasibility of expanding the program; and

(iii) Recommendations, including recommendations for further legislation as the board deems necessary.

(3) The board may adopt rules under chapter 34.05 RCW as it deems necessary to carry out the purposes of this chapter.

(4) The board shall cease to exist on June 30, 1987, unless extended by law for an additional fixed period of time. [1985 c 381 § 2; 1983 1st ex.s. c 72 § 6.]

Reviser's note: (1) RCW 28B.65.050 was amended twice during the 1985 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

* (2) RCW 28B.80.035 was repealed by 1985 c 370 § 105, effective January 1, 1986.

28B.65.060 Board—Staff support. Staff support for the high-technology coordinating board shall be provided by the department of trade and economic development. [1985 c 381 § 3; 1983 1st ex.s. c 72 § 7.]

28B.65.070 Board—Solicitation of private and federal support, gifts, conveyances, etc. The board may solicit gifts, grants, conveyances, bequests and devises, whether real or personal property, or both, in trust or otherwise, to be directed to institutions of higher education for the use or benefit of the high-technology education and training program. The board shall actively solicit support from business and industry and from the federal government for the high-technology education program. [1983 1st ex.s. c 72 § 8.]

28B.65.080 Consortium and baccalaureate degree training programs—Board recommendations—Requirements—Coordination. (1) The high-technology coordinating board shall make recommendations regarding:

(a) The establishment of regional consortiums for the establishment and development of high-technology education and training;

(b) The establishment of baccalaureate degree training programs in high-technology fields; and

(c) The offering of high-technology education and training programs at both community college facilities and at state colleges and regional universities.

(2) If the program is approved, the first two years of the baccalaureate degree program offered by the respective state colleges and regional universities at community college facilities shall be administered and operated by the respective community colleges. The third and fourth years of the baccalaureate degree program offered at the community college facilities shall be administered and operated by the respective state colleges and regional universities. Each community college participating in the program shall offer two-year associate degrees in high-technology fields which shall be transferrable to and accepted by the state colleges and regional universities.

(3) The high-technology coordinating board shall oversee and coordinate the operation of the consortiums.

(4) Any such consortiums shall be implemented upon approval by the high-technology coordinating board; PROVIDED, That if the fiscal impact of any program recommendations exceeds existing resources plus the two hundred fifty thousand dollars appropriated in section 15, chapter 72, Laws of 1983 1st ex. sess., such programs shall require legislative approval. [1983 1st ex.s. c 72 § 9.]

28B.65.090 Masters and doctorate level degrees in technology at University of Washington authorized. See RCW 28B.20.280.

28B.65.095 Washington technology center at University of Washington. See RCW 28B.20.285.

28B.65.100 Masters and doctorate level degrees in technology at Washington State University authorized. See RCW 28B.30.500.

28B.65.110 State-wide off-campus telecommunications system—Establishment by Washington State University for education in high-technology fields. See RCW 28B.30.520.

28B.65.900 Short title—1983 1st ex.s. c 72. This act may be known and cited as the Washington high-technology education and training act. [1983 1st ex.s. c 72 § 1.]

Reviser's note: "This act" consists of this chapter, RCW 28B.20.280, 28B.20.285, 28B.30.500, 28B.30.510, 28B.30.520, the repeal of RCW 28B.80.130 and 28B.80.140, and an uncodified appropriation section.

28B.65.905 Effective date—1983 1st ex.s. c 72. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government

and its existing public institutions, and shall take effect July 1, 1983. [1983 1st ex.s. c 72 § 18.]

Chapter 28B.70
WESTERN REGIONAL HIGHER EDUCATION
COMPACT

Sections

- 28B.70.010 Ratification of compact.
28B.70.020 Terms and provisions of compact.
28B.70.030 Formal ratification.
28B.70.040 Appointment, removal of commissioners.
28B.70.050 Exemption from nonresident tuition fees differential.

Board to coordinate state participation within student exchange compact programs: RCW 28B.80.150 through 28B.80.170.

28B.70.010 Ratification of compact. The western regional higher education compact, recommended by the western governors' conference on November 10, 1950, for adoption by the states or territories of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming, Alaska and Hawaii, is hereby ratified and approved and the adherence of this state to the provisions of this compact, upon its ratification and approval by any four or more of such states or territories in addition to this state, is hereby declared. [1969 ex.s. c 223 § 28B.70.010. Prior: 1955 c 214 § 1. Formerly RCW 28.82.010.]

28B.70.020 Terms and provisions of compact. The terms and provisions of the compact referred to in RCW 28B.70.010 are as follows:

WESTERN REGIONAL
HIGHER EDUCATION COMPACT

Article I

WHEREAS, The future of this Nation and of the Western States is dependent upon the quality of the education of its youth; and

WHEREAS, Many of the Western States individually do not have sufficient numbers of potential students to warrant the establishment and maintenance within their borders of adequate facilities in all the essential fields of technical, professional and graduate training, nor do all of the states have the financial ability to furnish within their borders institutions capable of providing acceptable standards of training in all of the fields mentioned above; and

WHEREAS, It is believed that the Western States, or group of such states within the Region, cooperatively can provide acceptable and efficient educational facilities to meet the needs of the Region and of the students thereof;

NOW, THEREFORE, The States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming, and the Territories of Alaska and Hawaii, do hereby covenant and agree as follows:

Article II

Each of the compacting states and territories pledge to each of the other compacting states and territories faithful cooperation in carrying out all the purposes of this compact.

Article III

The compacting states and territories hereby create the Western Interstate Commission for Higher Education, hereinafter called the Commission. Said Commission shall be a body corporate of each compacting state and territory and an agency thereof. The Commission shall have all the powers and duties set forth herein, including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states and territories.

Article IV

The Commission shall consist of three resident members from each compacting state or territory. At all times one commissioner from each compacting state or territory shall be an educator engaged in the field of higher education in the state or territory from which he is appointed.

The commissioners from each state and territory shall be appointed by the governor thereof as provided by law in such state or territory. Any commissioner may be removed or suspended from office as provided by the law of the state or territory from which he shall have been appointed.

The term of each commissioner shall be four years: PROVIDED, HOWEVER, That the first three commissioners shall be appointed as follows: one for two years, one for three years, and one for four years. Each commissioner shall hold office until his successor shall be appointed and qualified. If any office becomes vacant for any reason, the governor shall appoint a commissioner to fill the office for the remainder of the unexpired term.

Article V

Any business transacted at any meeting of the Commission must be by affirmative vote of a majority of the whole number of compacting states and territories.

One or more commissioners from a majority of the compacting states and territories shall constitute a quorum for the transaction of business.

Each compacting state and territory represented at any meeting of the Commission is entitled to one vote.

Article VI

The Commission shall elect from its number a chairman and a vice-chairman, and may appoint, and at its pleasure dismiss or remove, such officers, agents and employees as may be required to carry out the purpose of this compact; and shall fix and determine their duties, qualifications and compensation, having due regard for the importance of the responsibilities involved.

The commissioners shall serve without compensation, but shall be reimbursed for their actual and necessary expenses from the funds of the Commission.

Article VII

The Commission shall adopt a seal and bylaws and shall adopt and promulgate rules and regulations for its management and control.

The Commission may elect such committees as it deems necessary for the carrying out of its functions.

The Commission shall establish and maintain an office within one of the compacting states for the transaction of its

business and may meet at any time, but in any event must meet at least once a year. The chairman may call such additional meetings and upon the request of a majority of the commissioners of three or more compacting states or territories shall call additional meetings.

The Commission shall submit a budget to the governor of each compacting state and territory at such time and for such period as may be required.

The Commission shall, after negotiations with interested institutions, determine the cost of providing the facilities for graduate and professional education for use in its contractual agreements throughout the Region.

On or before the fifteenth day of January of each year, the Commission shall submit to the governors and legislatures of the compacting states and territories a report of its activities for the preceding calendar year.

The Commission shall keep accurate books of account, showing in full its receipts and disbursements, and said books of account shall be open at any reasonable time for inspection by the governor of any compacting state or territory or his designated representative. The Commission shall not be subject to the audit and accounting procedure of any of the compacting states or territories. The Commission shall provide for an independent annual audit.

Article VIII

It shall be the duty of the Commission to enter into such contractual agreements with any institutions in the Region offering graduate or professional education and with any of the compacting states or territories as may be required in the judgment of the Commission to provide adequate services and facilities of graduate and professional education for the citizens of the respective compacting states or territories. The Commission shall first endeavor to provide adequate services and facilities in the fields of dentistry, medicine, public health and veterinary medicine, and may undertake similar activities in other professional and graduate fields.

For this purpose the Commission may enter into contractual agreements

(a) with the governing authority of any educational institution in the Region, or with any compacting state or territory to provide such graduate or professional educational services upon terms and conditions to be agreed upon between contracting parties and

(b) with the governing authority of any educational institution in the Region or with any compacting state or territory to assist in the placement of graduate or professional students in educational institutions in the Region providing the desired services and facilities, upon such terms and conditions as the Commission may prescribe.

It shall be the duty of the Commission to undertake studies of needs for professional and graduate educational facilities in the Region, the resources of meeting such needs, and the long-range effects of the compact on higher education; and from time to time prepare comprehensive reports on such research for presentation to the Western Governors' Conference and to the legislatures of the compacting states and territories. In conducting such studies, the Commission may confer with any national or regional planning body which may be established. The Commission shall draft and recommend to the governors of the various compacting states

and territories, uniform legislation dealing with problems of higher education in the Region.

For the purposes of this compact the word "Region" shall be construed to mean the geographical limits of the several compacting states and territories.

Article IX

The operating costs of the Commission shall be apportioned equally among the compacting states and territories.

Article X

This compact shall become operative and binding immediately as to those states and territories adopting it whenever five or more of the states or territories of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming, Alaska and Hawaii have duly adopted it prior to July 1, 1955. This compact shall become effective as to any additional states or territories thereafter at the time of such adoption.

Article XI

This compact may be terminated at any time by consent of a majority of the compacting states or territories. Consent shall be manifested by passage and signature in the usual manner of legislation expressing such consent by the legislature and governor of such terminating state. Any state or territory may at any time withdraw from this compact by means of appropriate legislation to that end. Such withdrawal shall not become effective until two years after written notice thereof by the governor of the withdrawing state or territory accompanied by a certified copy of the requisite legislative action is received by the Commission. Such withdrawal shall not relieve the withdrawing state or territory from its obligations hereunder accruing prior to the effective date of withdrawal. The withdrawing state or territory may rescind its action of withdrawal at any time within the two-year period. Thereafter the withdrawing state or territory may be reinstated by application to and the approval by a majority vote of the Commission.

Article XII

If any compacting state or territory shall at any time default in the performance of any of its obligations assumed or imposed in accordance with the provisions of this compact, all rights, privileges and benefits conferred by this compact or agreements hereunder, shall be suspended from the effective date of such default as fixed by the commission.

Unless such default shall be remedied within a period of two years following the effective date of such default, this compact may be terminated with respect to such defaulting state or territory by affirmative vote of three-fourths of the other member states or territories.

Any such defaulting state may be reinstated by (a) performing all acts and obligations upon which it has heretofore defaulted, and (b) application to and the approval by a majority vote of the Commission. [1969 ex.s. c 223 § 28B.70.020. Prior: 1955 c 214 § 2. Formerly RCW 28.82.020.]

28B.70.030 Formal ratification. Upon ratification and approval of the western regional higher education

compact by any four or more of the specified states or territories in addition to this state, the governor of this state is authorized and directed to execute said compact on behalf of this state and to perform any other acts which may be deemed requisite to its formal ratification and promulgation. [1969 ex.s. c 223 § 28B.70.030. Prior: 1955 c 214 § 3. Formerly RCW 28.82.030.]

28B.70.040 Appointment, removal of commissioners. (1) The governor shall appoint the members, for this state, of the Western Interstate Commission for Higher Education, which is created under the provisions of Article III of the western regional higher education compact.

(2) The qualifications and terms of office of the members of the commission for this state shall conform with the provisions of Article IV of said compact.

(3) The commissioners shall serve without compensation and they shall be reimbursed for their actual and necessary expenses by the Western Interstate Commission for Higher Education.

(4) The governor may remove a member of the commission in conformity with the provisions of RCW 43.06.070, 43.06.080 and 43.06.090. [1981 c 338 § 14; 1969 ex.s. c 223 § 28B.70.040. Prior: 1955 c 214 § 4. Formerly RCW 28.82.040.]

28B.70.050 Exemption from nonresident tuition fees differential. When said compact becomes operative the governing board of each institution of higher education in this state, to the extent necessary to conform with the terms of the contractual agreement, subject to the limitations of RCW 28B.15.910, may exempt from payment all or a portion of the nonresident tuition fees differential, any student admitted to such institution under the terms of a contractual agreement entered into with the commission in accord with the provisions of Article VIII(a) of the compact.

Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act. [1992 c 231 § 30; 1969 ex.s. c 223 § 28B.70.050. Prior: 1955 c 214 § 5. Formerly RCW 28.82.050.]

Effective date—1992 c 231: See note following RCW 28B.10.016.

Chapter 28B.80

HIGHER EDUCATION COORDINATING BOARD

(Formerly: Council for postsecondary education in the state of Washington)

Sections

- 28B.80.110 Members—Compensation and travel expenses.
- 28B.80.129 Staff support for high-technology coordinating board.
- 28B.80.131 Distinguished professorship trust fund program—Board to administer.
- 28B.80.132 Graduate fellowship trust fund program—Board to administer.
- 28B.80.134 Board to administer future teachers conditional scholarship program.
- 28B.80.150 Board to coordinate state participation within student exchange compact programs—Designate certifying officer.
- 28B.80.160 Board to coordinate state participation within student exchange compact programs—Criteria.

- 28B.80.170 Board to coordinate state participation within student exchange compact programs—Advice to governor, legislature.
- 28B.80.180 Board may develop and administer demonstration projects.
- 28B.80.200 Board as state commission for federal law purposes.
- 28B.80.210 Board to administer certain federal programs.
- 28B.80.230 Federal funds, private gifts or grants, board to administer.
- 28B.80.240 Student financial aid programs, board to administer.
- 28B.80.245 Washington scholars award—Board to award grants.
- 28B.80.246 Washington scholars award grants—Transfers between colleges and universities.
- 28B.80.250 "Management employees" defined.
- 28B.80.255 Washington award for excellence—Use of academic grant.
- 28B.80.260 Management employee performance evaluations—Procedures and forms.
- 28B.80.265 Washington award for excellence—Rules.
- 28B.80.270 Management employee performance evaluations—Merit increases in salary.
- 28B.80.280 State-wide transfer of credit policy and agreement—Board to establish with assistance of institutions of higher education, when—Reports to legislature.
- 28B.80.290 State-wide transfer of credit policy and agreement—Requirements.
- 28B.80.300 Board created.
- 28B.80.310 Definitions.
- 28B.80.320 Purpose.
- 28B.80.330 Duties.
- 28B.80.340 Program responsibilities.
- 28B.80.350 Coordination of activities with segments of higher education.
- 28B.80.360 Administrative responsibilities—Report to the legislature.
- 28B.80.370 Adoption of rules.
- 28B.80.380 Advisory committees.
- 28B.80.390 Members—Appointment.
- 28B.80.400 Members—Terms.
- 28B.80.410 Members—Vacancies.
- 28B.80.420 Bylaws—Meetings.
- 28B.80.430 Director—Duties—Board use of state agencies.
- 28B.80.440 Interstate discussions and agreements about standards and programs for teachers, administrators, and educational staff associates.
- 28B.80.442 Interstate discussions—Support and services of western interstate commission on higher education.
- 28B.80.450 Placebound students—Study of needs.
- 28B.80.500 Branch campuses—Adjustment of enrollment lids.
- 28B.80.510 Branch campuses—Partnership between community colleges and four-year institutions.
- 28B.80.520 Branch campuses—Facilities acquisition.
- 28B.80.550 Advisory committee on access to education for students with disabilities.
- 28B.80.555 Advisory committee—Duties.
- 28B.80.570 Program for dislocated forest products workers—Definitions.
- 28B.80.575 Program for dislocated forest products workers—Duties.
- 28B.80.580 Program for dislocated forest products workers—Placebound students—Waiver from tuition and fees.
- 28B.80.585 Program for dislocated forest products workers—Priority.
- 28B.80.600 Video telecommunications programming.
- 28B.80.910 Severability—1969 ex.s. c 277.
- 28B.80.911 Severability—1985 c 370.
- 28B.80.912 Effective dates—1985 c 370.

Actions against educational boards—Defense—Costs—Payment of obligations from fund: RCW 28B.10.840, 28B.10.842.

Blind students' assistance at institutions of higher education, council duties concerning: RCW 28B.10.210 through 28B.10.220.

Board to adopt rules relating to students' residency status, recovery of fees: RCW 28B.15.015.

British Columbia—Tuition and fees—Reciprocity with Washington: RCW 28B.15.756 and 28B.15.758.

Development of definitions, criteria, and procedures for the operating cost of instruction—Educational cost study: RCW 28B.15.070.

Displaced homemaker act, board participation: Chapter 28B.04 RCW.

Educational boards, insurance to protect and hold personally harmless: RCW 28B.10.840, 28B.10.844.

High-technology coordinating board, representative of council or designee member of: RCW 28B.65.040.

Idaho—Tuition and fees—Reciprocity with Washington: RCW 28B.15.750 through 28B.15.754.

Joint center for higher education: Chapter 28B.25 RCW.

Oregon—Tuition and fees—Reciprocity with Washington: RCW 28B.15.730 through 28B.15.736.

Remunerated professional leaves for faculty members of institutions of higher education: RCW 28B.10.650.

28B.80.110 Members—Compensation and travel expenses. Members of the board shall be compensated in accordance with RCW 43.03.240 and shall receive travel expenses in accordance with RCW 43.03.050 and 43.03.060. [1985 c 370 § 16; 1984 c 287 § 65; 1975-'76 2nd ex.s. c 34 § 77; 1969 ex.s. c 277 § 12. Formerly RCW 28.89.110.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

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

28B.80.129 Staff support for high-technology coordinating board. See RCW 28B.65.060.

28B.80.131 Distinguished professorship trust fund program—Board to administer. See RCW 28B.10.867.

28B.80.132 Graduate fellowship trust fund program—Board to administer. See RCW 28B.10.881.

28B.80.134 Board to administer future teachers conditional scholarship program. See RCW 28B.102.030.

28B.80.150 Board to coordinate state participation within student exchange compact programs—Designate certifying officer. The board is hereby specifically directed to develop such state plans as are necessary to coordinate the state of Washington's participation within the student exchange compact programs under the auspices of the Western Interstate Commission for Higher Education, as provided by chapter 28B.70 RCW. In addition to establishing such plans the board shall designate the state certifying officer for student programs. [1985 c 370 § 17; 1974 ex.s. c 4 § 3.]

Severability—1974 ex.s. c 4: "If any provision of this 1973 [1974] act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 4 § 6.]

28B.80.160 Board to coordinate state participation within student exchange compact programs—Criteria. In the development of any such plans as called for within RCW 28B.80.150, the board shall use at least the following criteria:

(1) Students who are eligible to attend compact-authorized programs in other states shall meet the Washington residency requirements of chapter 28B.15 RCW prior to being awarded tuition assistance grants;

(2) If appropriations are insufficient to fund all students qualifying under subsection (1) of this section, then the plans shall include criteria for student selection that would be in the best interest in meeting the state's educational needs, as

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well as recognizing the financial needs of students. [1985 c 370 § 18; 1974 ex.s. c 4 § 4.]

Severability—1974 ex.s. c 4: See note following RCW 28B.80.150.

28B.80.170 Board to coordinate state participation within student exchange compact programs—Advice to governor, legislature. The board shall periodically advise the governor and the legislature of the policy implications of the state of Washington's participation in the Western Interstate Commission for Higher Education student exchange programs as they affect long-range planning for post-secondary education, together with recommendations on the most efficient way to provide high cost or special educational programs to Washington residents. [1985 c 370 § 19; 1974 ex.s. c 4 § 5.]

Severability—1974 ex.s. c 4: See note following RCW 28B.80.150.

28B.80.180 Board may develop and administer demonstration projects. The higher education coordinating board may develop and administer demonstration projects designed to prepare and assist persons to obtain a higher education in this state. [1989 c 306 § 2.]

28B.80.200 Board as state commission for federal law purposes. The higher education coordinating board is designated as the state commission as provided for in Section 1202 of the education amendments of 1972 (Public Law 92-318), as now or hereafter amended; and shall perform such functions as is necessary to comply with federal directives pertaining to the provisions of such law: PROVIDED, That notwithstanding the provisions of *RCW 28B.80.050, all members of the board shall have full voting powers in taking actions related to federal postsecondary educational planning functions as provided for in this section and RCW 28B.80.210 through 28B.80.240. [1985 c 370 § 20; 1975 1st ex.s. c 132 § 9.]

***Reviser's note:** RCW 28B.80.050 was repealed by 1985 c 370 § 105, effective January 1, 1986.

Effective date—1975 1st ex.s. c 132: "This 1975 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1975." [1975 1st ex.s. c 132 § 19.]

Severability—1975 1st ex.s. c 132: "If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 132 § 18.]

28B.80.210 Board to administer certain federal programs. The board shall administer any federal act pertaining to higher education which is not administered by another state agency. [1985 c 370 § 21; 1975 1st ex.s. c 132 § 12. Prior: 1969 ex.s. c 263 § 3. Formerly RCW 28.90.120, 28B.81.030.]

Effective date—Severability—1975 1st ex.s. c 132: See notes following RCW 28B.80.200.

28B.80.230 Federal funds, private gifts or grants, board to administer. The board is authorized to receive and expend federal funds and any private gifts or grants, such federal funds or private funds to be expended in accordance with the conditions contingent in such grant thereof. [1985 c 370 § 22; 1975 1st ex.s. c 132 § 14. Prior:

1969 ex.s. c 263 § 5. Formerly RCW 28.90.140, 28B.81.050.]

Effective date—Severability—1975 1st ex.s. c 132: See notes following RCW 28B.80.200.

28B.80.240 Student financial aid programs, board to administer. The board shall administer any state program or state-administered federal program of student financial aid now or hereafter established. [1985 c 370 § 23; 1975 1st ex.s. c 132 § 15. Prior: 1969 ex.s. c 263 § 7. Formerly RCW 28.90.160, 28B.81.070.]

Effective date—Severability—1975 1st ex.s. c 132: See notes following RCW 28B.80.200.

28B.80.245 Washington scholars award—Board to award grants. (1) Recipients of the Washington scholars award under RCW 28A.600.100 through 28A.600.150 choosing to attend an independent college or university in this state, as defined in subsection (4) of this section, may receive grants under this section if moneys are available. The higher education coordinating board shall distribute grants to eligible students under this section from moneys appropriated for this purpose. The individual grants shall not exceed, on a yearly basis, the yearly, full-time, resident, undergraduate tuition and service and activities fees in effect at the state-funded research universities. Grants shall be contingent upon the private institution matching on at least a dollar-for-dollar basis, either with actual money or by a waiver of fees, the amount of the grant received by the student from the state. The higher education coordinating board shall establish procedures, by rule, to disburse the awards as direct grants to the students.

(2) To qualify for the grant, recipients shall enter the independent college or university within three years of high school graduation and maintain a minimum grade point average at the college or university equivalent to 3.30. Students shall be eligible for grants for a maximum of twelve quarters or eight semesters of undergraduate study and may transfer among independent colleges and universities during that period and continue to receive the grant. If the student's cumulative grade point average falls below 3.30 during the first three quarters or two semesters, that student may petition the higher education coordinating board which shall have the authority to establish a probationary period until such time as the student's grade point average meets required standards.

(3) No grant shall be awarded to any student who is pursuing a degree in theology.

(4) As used in this section, "independent college or university" means a private, nonprofit educational institution, the main campus of which is permanently situated in the state, open to residents of the state, providing programs of education beyond the high school level leading at least to the baccalaureate degree, and accredited by the northwest association of schools and colleges as of June 9, 1988, and other institutions as may be developed that are approved by the higher education coordinating board as meeting equivalent standards as those institutions accredited under this section. [1990 c 33 § 560; 1988 c 210 § 1.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Application—1988 c 210 § 1: "RCW 28B.80.245 shall apply to persons holding the Washington scholars award as of June 9, 1988, as well as persons holding the award after June 9, 1988." [1988 c 210 § 3.]

28B.80.246 Washington scholars award grants—Transfers between colleges and universities. Students receiving grants under RCW 28B.80.245 or waivers under RCW 28B.15.543 shall be entitled to transfer between public and independent colleges or universities. Students transferring to a public institution of higher education from an independent college or university are entitled to a tuition waiver while enrolled at such institution during the period of eligibility under RCW 28B.15.543. Students transferring to an independent college or university from a public institution of higher education are entitled to a grant under RCW 28B.80.245 while enrolled at such college or university during the period of eligibility under RCW 28B.80.245. The total grants or waivers for any one student shall not exceed twelve quarters or eight semesters of undergraduate study. [1988 c 210 § 2.]

28B.80.250 "Management employees" defined.

Reviser's note: RCW 28B.80.250 was both amended and repealed during the 1985 legislative session, each without reference to the other. It has been decodified for publication purposes pursuant to RCW 1.12.025.

28B.80.255 Washington award for excellence—Use of academic grant. (Effective until June 30, 1993.) (1) Teachers and principals or administrators who select an academic grant under RCW 28A.625.041(2)(a) shall use the grant to attend a state public institution of higher education located in the state of Washington, except that the academic grant may be used for courses at a private institution of higher education in the state of Washington if the conditions in subsection (3) of this section are met, and the academic grant may be used for courses at a public or a private institution of higher education in another state or country if the conditions in subsection (4) of this section are met.

(2) "Institution of higher education" means:

(a) Any public university, college, community college, or technical college operated by the state of Washington or any political subdivision thereof; or

(b) Any other university, college, school, or institute in the state of Washington offering instruction beyond the high school level which is a member institution of an accrediting association recognized by rule of the board. Any 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 an accrediting association recognized by the board.

(3) Teachers and principals or administrators who select an academic grant under RCW 28A.625.041(2)(a) may use the grant for courses at any private institution as defined in subsection (2)(b) of this section subject to the following conditions:

(a) The academic grant shall provide reimbursement to the recipient for actual costs incurred for tuition and fees for up to forty-five quarter credit hours or thirty semester credit hours at a rate of reimbursement per credit hour not to exceed the resident graduate, part-time cost per credit hour at the University of Washington in the year the recipient

takes the credits. In addition, a stipend not to exceed one thousand dollars shall be provided for costs incurred in taking courses covered by the academic grant beginning with 1992 recipients, if funds are appropriated for the stipends in the omnibus appropriations act. This stipend shall be provided as reimbursement for actual costs incurred;

(b) The academic grant shall be contingent on the private institution matching on at least a dollar-for-dollar basis, either with actual money or by waiver of fees, the amount of the academic grant received by the recipient from the state; and

(c) The academic grant may not be used for any courses that include any religious worship or exercise, or apply to any degree in religious, seminarian, or theological academic studies.

(4) Teachers and principals or administrators who select an academic grant under RCW 28A.625.041(2)(a) may use the grant for courses at a public or private higher education institution in another state or country subject to the following conditions:

(a) The institution has an exchange program with a public or private higher education institution in Washington and the exchange program is approved or recognized by the higher education coordinating board; or

(b) The institution is approved or recognized by the higher education coordinating board; and

(c) The recipient of the Washington award for excellence in education has submitted in writing to the higher education coordinating board an explanation of why the preferred course or courses are not available at a public or private institution in Washington; and

(d) The academic grant may not be used for any courses that include any religious worship or exercise, or apply to any degree in religious, seminarian, or theological academic studies. [1992 c 83 § 3; 1991 c 255 § 6.]

Effective date—1992 c 83: See note following RCW 28A.625.041.

28B.80.255 Washington award for excellence—Use of academic grant. (Effective June 30, 1993.) (1) Teachers, classified employees, and principals or administrators who select an academic grant under RCW 28A.625.041(2)(a) shall use the grant to attend a state public institution of higher education located in the state of Washington, except that the academic grant may be used for courses at a private institution of higher education in the state of Washington if the conditions in subsection (3) of this section are met, and the academic grant may be used for courses at a public or private institution of higher education in another state or country if the conditions in subsection (4) of this section are met.

(2) "Institution of higher education" means:

(a) Any public university, college, community college, or technical college operated by the state of Washington or any political subdivision thereof; or

(b) Any other university, college, school, or institute in the state of Washington offering instruction beyond the high school level which is a member institution of an accrediting association recognized by rule of the board. Any 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 an accrediting association recognized by the board.

(3) Teachers, classified employees, and principals or administrators who select an academic grant under RCW 28A.625.041(2)(a) may use the grant for courses at any private institution as defined in subsection (2)(b) of this section subject to the following conditions:

(a) The academic grant shall provide reimbursement to the recipient for actual costs incurred for tuition and fees for up to forty-five quarter credit hours or thirty semester credit hours at a rate of reimbursement per credit hour not to exceed the resident graduate, part-time cost per credit hour at the University of Washington in the year the recipient takes the credits. In addition, a stipend not to exceed one thousand dollars shall be provided for costs incurred in taking courses covered by the academic grant beginning with 1992 recipients, if funds are appropriated for the stipends in the omnibus appropriations act. This stipend shall be provided as reimbursement for actual costs incurred;

(b) The academic grant shall be contingent on the private institution matching on at least a dollar-for-dollar basis, either with actual money or by waiver of fees, the amount of the academic grant received by the recipient from the state; and

(c) The academic grant may not be used for any courses that include any religious worship or exercise, or apply to any degree in religious, seminarian, or theological academic studies.

(4) Teachers, classified employees, and principals or administrators who select an academic grant under RCW 28A.625.041(2)(a) may use the grant for courses at a public or private higher education institution in another state or country subject to the following conditions:

(a) The institution has an exchange program with a public or private higher education institution in Washington and the exchange program is approved or recognized by the higher education coordinating board; or

(b) The institution is approved or recognized by the higher education coordinating board; and

(c) The recipient of the Washington award for excellence in education has submitted in writing to the higher education coordinating board an explanation of why the preferred course or courses are not available at a public or private institution in Washington; and

(d) The academic grant may not be used for any courses that include any religious worship or exercise, or apply to any degree in religious, seminarian, or theological academic studies. [1992 c 83 § 3; 1992 c 50 § 2; 1991 c 255 § 6.]

Reviser's note: This section was amended by 1992 c 50 § 2 and by 1992 c 83 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—1992 c 83: See note following RCW 28A.625.041.

Effective date—1992 c 50: See note following RCW 28A.625.041.

28B.80.260 Management employee performance evaluations—Procedures and forms.

Reviser's note: RCW 28B.80.260 was both amended and repealed during the 1985 legislative session, each without reference to the other. It has been decodified for publication purposes pursuant to RCW 1.12.025.

28B.80.265 Washington award for excellence—Rules. (1) The higher education coordinating board shall adopt rules as necessary under chapter 34.05 RCW to administer the academic grants awarded under RCW 28A.625.041(2)(a).

(2) The rules adopted by the board shall reflect that the changes to RCW 28A.625.041(2)(a) in section 1, chapter 83, Laws of 1992 shall apply to all recipients of a Washington award for excellence in education, regardless of the statutory language in effect at the time the award was granted. [1992 c 83 § 4; 1991 c 255 § 7.]

Effective date—1992 c 83: See note following RCW 28A.625.041.

28B.80.270 Management employee performance evaluations—Merit increases in salary.

Reviser's note: RCW 28B.80.270 was both amended and repealed during the 1985 legislative session, each without reference to the other. It has been decodified for publication purposes pursuant to RCW 1.12.025.

28B.80.280 State-wide transfer of credit policy and agreement—Board to establish with assistance of institutions of higher education, when—Reports to legislature. The board shall, in cooperation with the state institutions of higher education and the *state board for community college education, establish and maintain a state-wide transfer of credit policy and agreement. The policy and agreement shall, where feasible, include course and program descriptions consistent with state-wide interinstitutional guidelines. The institutions of higher education shall provide support and staff resources as necessary to assist in developing and maintaining this policy and agreement. The state-wide transfer of credit policy and agreement shall be effective beginning with the 1985-86 academic year. The board shall report on developments toward that objective at the 1987 regular session of the legislature. [1985 c 370 § 27; 1983 c 304 § 1.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

28B.80.290 State-wide transfer of credit policy and agreement—Requirements. The state-wide transfer of credit policy and agreement shall be designed to facilitate the transfer of students and the evaluation of transcripts, to better serve persons seeking information about courses and programs, to aid in academic planning, and to improve the review and evaluation of academic programs in the state institutions of higher education. The state-wide transfer of credit policy and agreement shall not require nor encourage the standardization of course content and shall not prescribe course content or the credit value assigned by any institution to the course. [1983 c 304 § 2.]

28B.80.300 Board created. There is hereby created the Washington higher education coordinating board. [1985 c 370 § 1.]

28B.80.310 Definitions. For the purposes of this chapter:

(1) "Board" means the higher education coordinating board; and

(2) "Four-year institutions" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College. [1985 c 370 § 2.]

28B.80.320 Purpose. The purpose of the board is to provide planning, coordination, monitoring, and policy analysis for higher education in the state of Washington in cooperation and consultation with the institutions' autonomous governing boards and with all other segments of postsecondary education, including but not limited to the *state board for community college education and the **commission for vocational education. The legislature intends that the board represent the broad public interest above the interests of the individual colleges and universities. [1985 c 370 § 3.]

Reviser's note: *(1) The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

** (2) The commission on vocational education and its powers and duties, pursuant to the Sunset Act, chapter 43.131 RCW, were terminated June 30, 1986, and repealed June 30, 1987. See 1983 c 197 §§ 17 and 43.

28B.80.330 Duties. The board shall perform the following planning duties in consultation with the four-year institutions, the *community college system, and when appropriate the **commission for vocational education, the superintendent of public instruction for the vocational-technical institutes, and the independent higher educational institutions:

(1) Develop and establish role and mission statements for each of the four-year institutions and for the *community college system;

(2) Identify the state's higher education goals, objectives, and priorities;

(3) Prepare a comprehensive master plan which includes but is not limited to:

(a) Assessments of the state's higher education needs. These assessments may include, but are not limited to: The basic and continuing needs of various age groups; business and industrial needs for a skilled workforce; analyses of demographic, social, and economic trends; consideration of the changing ethnic composition of the population and the special needs arising from such trends; college attendance, retention, and dropout rates, and the needs of recent high school graduates and placebound adults. The board should consider the needs of residents of all geographic regions, but its initial priorities should be applied to heavily populated areas underserved by public institutions;

(b) Recommendations on enrollment and other policies and actions to meet those needs;

(c) Guidelines for continuing education, adult education, public service, and other higher education programs.

The initial plan shall be submitted to the governor and the legislature by December 1, 1987. Comments on the plan from the board's advisory committees and the institutions shall be submitted with the plan.

The plan shall be updated biennially, and presented to the governor and the appropriate legislative policy committees. Following public hearings, the legislature shall, by concurrent resolution, approve or recommend changes to the

initial plan, and the biennial updates. The plan shall then become state higher education policy unless legislation is enacted to alter the policies set forth in the plan;

(4) Review, evaluate, and make recommendations on operating and capital budget requests from four-year institutions and the *community college system, based on the elements outlined in subsections (1), (2), and (3) of this section, and on guidelines which outline the board's fiscal priorities. These guidelines shall be distributed to the institutions and the community college board by December of each odd-numbered year. The institutions and the community college board shall submit an outline of their proposed budgets, identifying major components, to the board no later than August 1 of each even-numbered year. The board shall submit recommendations on the proposed budgets and on the board's budget priorities to the office of financial management before October 15 of each even-numbered year, and to the legislature by January 1 of each odd-numbered year;

(5) Recommend legislation affecting higher education;

(6) Recommend tuition and fees policies and levels based on comparisons with peer institutions;

(7) Establish priorities and develop recommendations on financial aid based on comparisons with peer institutions;

(8) Prepare recommendations on merging or closing institutions; and

(9) Develop criteria for identifying the need for new baccalaureate institutions. [1985 c 370 § 4.]

Reviser's note: *(1) The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

** (2) The commission on vocational education and its powers and duties, pursuant to the Sunset Act, chapter 43.131 RCW, were terminated June 30, 1986, and repealed June 30, 1987. See 1983 c 197 §§ 17 and 43.

28B.80.340 Program responsibilities. The board shall perform the following program responsibilities, in consultation with the institutions and with other interested agencies and individuals:

(1) Approve the creation of any new degree programs at the four-year institutions and prepare fiscal notes on any such programs;

(2) Review, evaluate, and make recommendations for the modification, consolidation, initiation, or elimination of on-campus programs, at the four-year institutions;

(3) Review and evaluate and approve, modify, consolidate, initiate, or eliminate off-campus programs at the four-year institutions;

(4) Approve, and adopt guidelines for, higher education centers and consortia;

(5) Approve purchase or lease of major off-campus facilities for the four-year institutions and the community colleges;

(6) Establish campus service areas and define on-campus and off-campus activities and major facilities; and

(7) Approve contracts for off-campus educational programs initiated by the state's four-year institutions individually, in concert with other public institutions, or with independent institutions. [1985 c 370 § 5.]

28B.80.350 Coordination of activities with segments of higher education. The board shall coordinate educational

activities among all segments of higher education taking into account the educational programs, facilities, and other resources of both public and independent two and four-year colleges and universities. The four-year institutions and the *state board for community college education shall coordinate information and activities with the board. The board shall have the following additional responsibilities:

(1) Promote interinstitutional cooperation;

(2) Establish minimum admission standards for four-year institutions, including a requirement that coursework in American sign language shall satisfy any foreign language requirement the board or the institutions may establish as a general undergraduate admissions requirement;

(3) Establish transfer policies;

(4) Adopt rules implementing statutory residency requirements;

(5) Develop and administer reciprocity agreements with bordering states and the province of British Columbia;

(6) Review and recommend compensation practices and levels for administrative employees, exempt under chapter 28B.16 RCW, and faculty using comparative data from peer institutions;

(7) Monitor higher education activities for compliance with all relevant state policies for higher education;

(8) Arbitrate disputes between and among four-year institutions or between and among four-year institutions and community colleges at the request of one or more of the institutions involved, or at the request of the governor, or from a resolution adopted by the legislature. The decision of the board shall be binding on the participants in the dispute;

(9) Establish and implement a state system for collecting, analyzing, and distributing information;

(10) Recommend to the governor and the legislature ways to remove any economic incentives to use off-campus program funds for on-campus activities; and

(11) Make recommendations to increase minority participation, and monitor and report on the progress of minority participation in higher education. [1992 c 60 § 3; 1988 c 172 § 4; 1985 c 370 § 6.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

28B.80.360 Administrative responsibilities—Report to the legislature. The board shall perform the following administrative responsibilities:

(1) Administer the programs set forth in the following statutes: RCW 28A.600.100 through 28A.600.150 (Washington scholars); chapter 28B.04 RCW (displaced homemakers); chapter 28B.85 RCW (degree-granting institutions); RCW 28B.10.210 through 28B.10.220 (blind students subsidy); RCW 28B.10.800 through 28B.10.824 (student financial aid program); chapter 28B.12 RCW (work study); RCW 28B.15.067 through 28B.15.076 (educational costs for establishing tuition and fees); RCW 28B.15.543 (tuition waivers for Washington scholars); RCW 28B.15.760 through 28B.15.766 (math and science loans); RCW 28B.80.150 through 28B.80.170 (student exchange compact); RCW 28B.80.240 (student aid programs); and RCW 28B.80.210 (federal programs).

(2) Study the delegation of the administration of the following: RCW 28B.65.040 through 28B.65.060 (high-technology board); chapter 28B.85 RCW (degree-granting institutions); RCW 28B.80.150 through 28B.80.170 (student exchange compact programs); RCW 28B.80.200 (state commission for federal law purposes); RCW 28B.80.210 (enumerated federal programs); RCW 28B.80.230 (receipt of federal funds); RCW 28B.80.240 (student financial aid programs); RCW 28A.600.120 through 28A.600.150 (Washington scholars); RCW 28B.15.543 (Washington scholars); RCW 28B.04.020 through 28B.04.110 (displaced homemakers); RCW 28B.10.215 and 28B.10.220 (blind students); RCW 28B.10.790, 28B.10.792, and 28B.10.802 through 28B.10.844 (student financial aid); RCW 28B.12.040 through 28B.12.070 (student work study); RCW 28B.15.100 (reciprocity agreement); RCW 28B.15.730 through 28B.15.736 (Oregon reciprocity); RCW 28B.15.750 through 28B.15.754 (Idaho reciprocity); RCW 28B.15.756 and 28B.15.758 (British Columbia reciprocity); and RCW 28B.15.760 through 28B.15.764 (math/science loans). The board shall report the results of its study and recommendations to the legislature. [1990 c 33 § 561; 1986 c 136 § 20; 1985 c 370 § 7.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Severability—Effective date—1986 c 136: See RCW 28B.85.900 and 28B.85.902.

28B.80.370 Adoption of rules. The board shall have authority to adopt rules as necessary to implement this chapter. [1985 c 370 § 8.]

28B.80.380 Advisory committees. The board shall establish advisory committees composed of members representing faculty, administrators, students, regents and trustees, and staff of the public institutions, the superintendent of public instruction, and the independent institutions. [1985 c 370 § 9.]

28B.80.390 Members—Appointment. The board shall consist of nine members who are representative of the public, including women and the racial minority community. All members shall be appointed at large by the governor and approved by the senate. The governor shall appoint the chair, who shall serve at the governor's pleasure. [1985 c 370 § 10.]

28B.80.400 Members—Terms. The members of the board, except the chair, shall serve for terms of four years, the terms expiring on June 30th of the fourth year of the term except that in the case of initial members, two shall be appointed to two-year terms, three shall be appointed to three-year terms, and three shall be appointed to four-year terms. [1985 c 370 § 11.]

28B.80.410 Members—Vacancies. Any vacancies among board members shall be filled by the governor subject to confirmation by the senate then in session, or if not in session, at the next session. Board members appointed under this section shall have full authority to act as such prior to the time the senate acts on their confirmation. Appointments

to fill vacancies shall be only for such terms as remain unexpired. [1985 c 370 § 12.]

28B.80.420 Bylaws—Meetings. The board shall adopt bylaws and shall meet at least four times each year and at such other times as determined by the chair who shall give reasonable prior notice to the members.

Board members are expected to consistently attend board meetings. The chair of the board may ask the governor to remove any member who misses more than two meetings in any calendar year without cause. [1985 c 370 § 13.]

28B.80.430 Director—Duties—Board use of state agencies. The board shall employ a director and may delegate agency management to the director. The director shall serve at the pleasure of the board, shall be the executive officer of the board, and shall, under the board's supervision, administer the provisions of this chapter. The executive director shall, with the approval of the board: (1) Employ necessary deputy and assistant directors and other exempt staff under chapter 28B.16 RCW who shall serve at his or her pleasure on such terms and conditions as he or she determines and (2) subject to the provisions of chapter 28B.16 RCW, appoint and employ such other employees as may be required for the proper discharge of the functions of the board. The executive director shall exercise such additional powers, other than rulemaking, as may be delegated by the board by resolution. In fulfilling the duties under this chapter, the board shall make extensive use of those state agencies with responsibility for implementing and supporting postsecondary education plans and policies including but not limited to appropriate legislative groups, the postsecondary education institutions, the office of financial management, the *commission for vocational education, and the **state board for community college education. Outside consulting and service agencies may also be employed. The board may compensate these groups and consultants in appropriate ways. [1987 c 330 § 301; 1985 c 370 § 14.]

Reviser's note: *(1) The commission on vocational education and its powers and duties, pursuant to the Sunset Act, chapter 43.131 RCW, were terminated June 30, 1986, and repealed June 30, 1987. See 1983 c 197 §§ 17 and 43.

** (2) The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Construction—Application of rules—Severability—1987 c 330: See notes following RCW 28B.12.050.

28B.80.440 Interstate discussions and agreements about standards and programs for teachers, administrators, and educational staff associates. (1) The higher education coordinating board, jointly with the state board of education and the superintendent of public instruction, shall establish formal contact with education officials in Oregon, and other member states of the western interstate commission on higher education, as necessary, for the purpose of entering into ongoing discussions relating to:

(a) Accreditation standards for programs leading to certification of teachers, administrators, and educational staff associates;

(b) Program requirements for the preparation of teachers, administrators, and educational staff associates; and

(c) Definitions of educational staff associates.

(2) The purpose of such discussions shall be to encourage agreements between Washington and Oregon, and Washington and other western regional states, to facilitate interstate recognition of certification programs, standards, and requirements and thus encourage and accommodate interstate student teaching opportunities and reduce barriers for persons receiving certification in one state from being immediately eligible for employment in another state. [1987 c 40 § 1.]

28B.80.442 Interstate discussions—Support and services of western interstate commission on higher education. In order to comply with the purposes of RCW 28B.80.440, the higher education coordinating board is encouraged to enlist the support and services of the western interstate commission on higher education. [1987 c 40 § 2.]

28B.80.450 Placebound students—Study of needs. The higher education coordinating board shall study upper division baccalaureate educational needs of placebound students, and the graduate educational needs of teachers, living in areas of the state not currently served by either existing four-year institutions or branch campuses. The study shall include recommendations on how the needs should be addressed, and which institutions should be responsible for serving specific areas. [1990 c 288 § 1.]

28B.80.500 Branch campuses—Adjustment of enrollment lids. It is the intent of the legislature that, at the same time additional capital or operating funds are approved for the purposes of RCW 28B.45.020 through 28B.45.060, enrollment lids at existing baccalaureate institutions of higher education should be raised at the upper-division level insofar as doing so would increase participation rates in underserved areas. [1989 1st ex.s. c 7 § 2.]

Legislative findings—1989 1st ex.s. c 7: See RCW 28B.45.010.

28B.80.510 Branch campuses—Partnership between community colleges and four-year institutions. In rules and guidelines adopted for purposes of *this act, the higher education coordinating board shall ensure a collaborative partnership between the community colleges and the four-year institutions. The partnership shall be one in which the community colleges prepare students for transfer to the upper-division programs of the branch campuses. [1989 1st ex.s. c 7 § 8.]

**Reviser's note:* "This act" consists of the enactment of RCW 28B.10.060, 28B.45.010 through 28B.45.070, and 28B.80.500 through 28B.80.540, the 1989 1st ex.s. c 7 amendment to RCW 28B.25.020, and the repeal of RCW 28B.30.510.

Legislative findings—1989 1st ex.s. c 7: See RCW 28B.45.010.

28B.80.520 Branch campuses—Facilities acquisition. Before approving any institutional request to acquire facilities in an area assigned in RCW 28B.45.020 through 28B.45.060, the higher education coordinating board shall ensure that creative and cost-effective methods of serving the

needs of each assigned area are considered, including but not limited to:

(1) Exploring the possibility of time-sharing existing college or university facilities for instructional and administrative purposes;

(2) Using rented facilities; and

(3) Utilizing telecommunication technology. [1989 1st ex.s. c 7 § 9.]

Legislative findings—1989 1st ex.s. c 7: See RCW 28B.45.010.

28B.80.550 Advisory committee on access to education for students with disabilities. The higher education coordinating board shall establish an advisory committee on access to higher education for students with disabilities. The committee shall include but need not be limited to representation from the following: Students with disabilities, coordinators of services for students with disabilities, the governor's committee on disability issues and employment, and agencies and organizations that work with or represent persons with disabilities. [1991 c 228 § 7.]

28B.80.555 Advisory committee—Duties. In consultation with the advisory committee on access to higher education for students with disabilities the board shall:

(1) Inventory existing campus and agency resources available to address the accommodation needs of students with disabilities;

(2) Distribute the inventory to institutions of higher education and to the superintendent of public instruction for further distribution to appropriate personnel in the K-12 system;

(3) Survey institutions of higher education and students with disabilities to identify specific services that have been requested but not provided;

(4) Report the results of the survey, with recommendations on a phased plan to meet identified needs in priority order, to the governor, the house of representatives and senate higher education and fiscal committees, and the institutions of higher education;

(5) In coordination with the *state board for community college education, conduct a state-wide training workshop for coordinators of services for students with disabilities. [1991 c 228 § 8.]

**Reviser's note:* The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

28B.80.570 Program for dislocated forest products workers—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 28B.80.575 through 28B.80.585.

(1) "Board" means the higher education coordinating board.

(2) "Dislocated forest products worker" means a forest products worker who: (a)(i) Has been terminated or received notice of termination from employment and is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for his or her skills in that occupation or industry; or (ii) is self-employed and has been displaced from his or her business because of the diminishing demand for the business's

services or goods; and (b) at the time of last separation from employment, resided in or was employed in a timber impact area.

(3) "Forest products worker" means a worker in the forest products industries affected by the reduction of forest fiber enhancement, transportation, or production. The workers included within this definition shall be determined by the employment security department, but shall include workers employed in the industries assigned the major group standard industrial classification codes "24" and "26" and the industries involved in the harvesting and management of logs, transportation of logs and wood products, processing of wood products, and the manufacturing and distribution of wood processing and logging equipment. The commissioner may adopt rules further interpreting these definitions. For the purposes of this subsection, "standard industrial classification code" means the code identified in RCW 50.29.025(6)(c).

(4) "Timber impact area" means:

(a) A county having a population of less than five hundred thousand, or a city or town located within a county having a population of less than five hundred thousand, and meeting two of the following three criteria, as determined by the employment security department, for the most recent year such data is available: (i) A lumber and wood products employment location quotient at or above the state average; (ii) projected or actual direct lumber and wood products job losses of one hundred positions or more, except counties having a population greater than two hundred thousand but less than five hundred thousand must have direct lumber and wood products job losses of one thousand positions or more; or (iii) an annual unemployment rate twenty percent or more above the state average; or

(b) Additional communities as the economic recovery coordinating board, established in RCW 43.31.631, designates based on a finding by the board that each designated community is socially and economically integrated with areas that meet the definition of a timber impact area under (a) of this subsection. [1992 c 21 § 6; 1991 c 315 § 18.]

Intent—1991 c 315: See note following RCW 50.12.270.

Severability—Conflict with federal requirements—Effective date—1991 c 315: See RCW 50.70.900 through 50.70.902.

28B.80.575 Program for dislocated forest products workers—Duties. The board shall administer a program designed to provide upper division higher education opportunities to dislocated forest products workers, their spouses, and others in timber impact areas. In administering the program, the board shall have the following powers and duties:

(1) Distribute funding for institutions of higher education to service placebound students in the timber impact areas meeting the following criteria, as determined by the employment security department: (a) A lumber and wood products employment location quotient at or above the state average; (b) a direct lumber and wood products job loss of one hundred positions or more; and (c) an annual unemployment rate twenty percent above the state average;

(2) Appoint an advisory committee to assist the board in program design and future project selection;

(3) Monitor the program and report on student progress and outcome; and

(4) Report to the legislature by December 1, 1993, on the status of the program. [1991 c 315 § 19.]

Intent—1991 c 315: See note following RCW 50.12.270.

Severability—Conflict with federal requirements—Effective date—1991 c 315: See RCW 50.70.900 through 50.70.902.

28B.80.580 Program for dislocated forest products workers—Placebound students—Waiver from tuition and fees.

(1) The board shall contract with institutions of higher education to provide upper division classes to serve additional placebound students in the timber impact areas meeting the following criteria, as determined by the employment security department: (a) A lumber and wood products employment location quotient at or above the state average; (b) a direct lumber and wood products job loss of one hundred positions or more; and (c) an annual unemployment rate twenty percent above the state average; and which are not served by an existing state-funded upper division degree program. The number of full-time equivalent students served in this manner shall be determined by the applicable omnibus appropriations act. The board may direct that all the full-time equivalent enrollments be served in one of the eligible timber impact areas if it should determine that this would be the most viable manner of establishing the program and using available resources. The institutions shall utilize telecommunication technology, if available, to carry out the purposes of this section. Subject to the limitations of RCW 28B.15.910, the institutions providing the service may waive all or a portion of the tuition, [and] service and activities fees for dislocated forest products workers or their unemployed spouses enrolled as one of the full-time equivalent students allocated to the college under this section.

(2) Unemployed spouses of eligible dislocated forest products workers may participate in the program, but tuition and fees may be waived under the program only for the worker or the spouse and not both.

(3) Subject to the limitations of RCW 28B.15.910, for any eligible participant, all or a portion of tuition may be waived for a maximum of four semesters or six quarters within a two-year time period. The participant must be enrolled for a minimum of ten credits per semester or quarter.

Before June 30, 1995, no individual waiver program under this section may be reduced by more than twice the percentage reduction required in operating fee foregone revenue from tuition waivers in the biennial state appropriations act. [1992 c 231 § 31; 1991 c 315 § 20.]

Effective date—1992 c 231: See note following RCW 28B.10.016.

Intent—1991 c 315: See note following RCW 50.12.270.

Severability—Conflict with federal requirements—Effective date—1991 c 315: See RCW 50.70.900 through 50.70.902.

28B.80.585 Program for dislocated forest products workers—Priority. Dislocated forest products workers and their spouses shall receive priority for attendance in upper division courses allocated under RCW 28B.80.580. Remaining allocations may be distributed to others in the timber impact area. [1991 c 315 § 21.]

Intent—1991 c 315: See note following RCW 50.12.270.

Severability—Conflict with federal requirements—Effective date—1991 c 315: See RCW 50.70.900 through 50.70.902.

28B.80.600 Video telecommunications programming. The higher education coordinating board shall provide state-wide coordination of video telecommunications programming for the public four-year higher education institutions. [1990 c 208 § 9.]

28B.80.910 Severability—1969 ex.s. c 277. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected. [1969 ex.s. c 277 § 15. Formerly RCW 28.89.910.]

28B.80.911 Severability—1985 c 370. 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. [1985 c 370 § 107.]

28B.80.912 Effective dates—1985 c 370. 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. Section 106 of this act shall take effect June 30, 1985. Sections 1 through 96, and 105 of this act shall take effect January 1, 1986, but any steps that may be necessary to ensure that this act is implemented on its effective dates may be taken immediately. [1985 c 370 § 108.]

Chapter 28B.85

DEGREE-GRANTING INSTITUTIONS

Sections

28B.85.010	Definitions.
28B.85.020	Board's duties—Rules—Investigations—Interagency agreements about nondegree programs.
28B.85.030	Current authorization required to offer or grant degree.
28B.85.040	Completion of program of study prerequisite to degree—Application of chapter.
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28B.85.050	Board may require information.
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28B.85.090	Claims—Complaints—Investigations—Hearings—Orders.
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28B.85.170	Injunctive relief—Board may seek.
28B.85.180	Violation of chapter unfair or deceptive practice under RCW 19.86.020.
28B.85.190	Remedies and penalties in chapter nonexclusive and cumulative.
28B.85.900	Severability—1986 c 136.
28B.85.902	Effective date—1986 c 136.
28B.85.905	Validity of registration under prior laws.

Teacher preparation programs—Requirements for admission: RCW 28A.410.020.

Teachers—Candidates for certification—Admission to practice examination: RCW 28A.410.030.

28B.85.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

(1) "Board" means the higher education coordinating board.

(2) "Degree" means any designation, appellation, letters, or words including but not limited to "associate," "bachelor," "master," "doctor," or "fellow" which signify or purport to signify satisfactory completion of the requirements of an academic program of study beyond the secondary school level.

(3) "Degree-granting institution" means an entity that offers educational credentials, instruction, or services prerequisite to or indicative of an academic or professional degree beyond the secondary level. [1986 c 136 § 1.]

28B.85.020 Board's duties—Rules—Investigations—Interagency agreements about nondegree programs. The board:

(1) Shall adopt by rule minimum standards for degree-granting institutions concerning granting of degrees, quality of education, unfair business practices, financial stability, and other necessary measures to protect citizens of this state against substandard, fraudulent, or deceptive practices. The board shall adopt the rules in accordance with chapter 34.05 RCW;

(2) May investigate any entity the board reasonably believes to be subject to the jurisdiction of this chapter. In connection with the investigation, the board may administer oaths and affirmations, issue subpoenas and compel attendance, take evidence, and require the production of any books, papers, correspondence, memorandums, or other records which the board deems relevant or material to the investigation. The board, including its staff and any other authorized persons, may conduct site inspections and examine records of all institutions subject to this chapter;

(3) Shall develop an interagency agreement with the *commission for vocational education or its successor agency to regulate degree-granting private vocational schools with respect to nondegree programs. [1986 c 136 § 2.]

*Reviser's note: The commission on vocational education and its powers and duties, pursuant to the Sunset Act, chapter 43.131 RCW, were terminated June 30, 1986, and repealed June 30, 1987. See 1983 c 197 §§ 17 and 43.

28B.85.030 Current authorization required to offer or grant degree. A degree-granting institution shall not operate and shall not grant or offer to grant any degree unless the institution has obtained current authorization from the board. [1986 c 136 § 3.]

28B.85.040 Completion of program of study prerequisite to degree—Application of chapter. (1) An institution or person shall not advertise, offer, sell, or award a degree or any other type of educational credential unless the student has enrolled in and successfully completed a prescribed program of study, as outlined in the institution's

publications. This prohibition shall not apply to honorary credentials clearly designated as such on the front side of the diploma or certificate and awarded by institutions offering other educational credentials in compliance with state law.

(2) Except as provided in subsection (1) of this section, this chapter shall not apply to:

(a) Any public college, university, or other entity operating as part of the public educational system of this state.

(b) Institutions that have been accredited by an accrediting association recognized by the agency for the purposes of this chapter, 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.

(c) Institutions of a religious character, but only as to those education programs devoted exclusively to religious or theological objectives if the programs are represented in an accurate manner in institutional catalogs and other official publications.

(d) Institutions not otherwise exempt which offer only workshops or seminars lasting no longer than three calendar days and for which academic credit is not awarded. [1986 c 136 § 4.]

28B.85.045 Institutions offering teacher preparation programs—Exploration of methods to enhance awareness of teacher preparation programs. See RCW 28B.10.032.

28B.85.050 Board may require information. All degree-granting institutions subject to this chapter shall file information with the board as the board may require. [1986 c 136 § 5.]

28B.85.060 Fees. The board shall impose fees on any degree-granting institution authorized to operate under this chapter. Fees shall be set and revised by the board by rule at the level necessary to approximately recover the staffing costs incurred in administering this chapter. Fees shall be deposited in the general fund. [1986 c 136 § 6.]

28B.85.070 Surety bonds—Security in lieu of bond—Cancellation of bond—Notice—Claims. (1) The board may require any degree-granting institution to have on file with the board an approved surety bond or other security in lieu of a bond in an amount determined by the board.

(2) In lieu of a surety bond, an institution may deposit with the board a cash deposit or other negotiable security acceptable to the board. The security deposited with the board in lieu of the surety bond shall be returned to the institution one year after the institution's authorization has expired or been revoked if legal action has not been instituted against the institution or the security deposit at the expiration of the year. The obligations and remedies relating to surety bonds authorized by this section, including but not limited to the settlement of claims procedure in subsection (5) of this section, shall apply to deposits filed with the board, as applicable.

(3) Each bond shall:

(a) Be executed by the institution as principal and by a corporate surety licensed to do business in the state;

(b) Be payable to the state for the benefit and protection of any student or enrollee of an institution, or, in the case of a minor, his or her parents or guardian;

(c) Be conditioned on compliance with all provisions of this chapter and the board's rules adopted under this chapter;

(d) Require the surety to give written notice to the board at least thirty-five days before cancellation of the bond; and

(e) Remain in effect for one year following the effective date of its cancellation or termination as to any obligation occurring on or before the effective date of cancellation or termination.

(4) Upon receiving notice of a bond cancellation, the board shall notify the institution that the authorization will be suspended on the effective date of the bond cancellation unless the institution files with the board another approved surety bond or other security. The board may suspend or revoke the authorization at an earlier date if it has reason to believe that such action will prevent students from losing their tuition or fees.

(5) If a complaint is filed under RCW 28B.85.090(1) against an institution, the board may file a claim against the surety and settle claims against the surety by following the procedure in this subsection.

(a) The board shall attempt to notify all potential claimants. If the absence of records or other circumstances makes it impossible or unreasonable for the board to ascertain the names and addresses of all the claimants, the board after exerting due diligence and making reasonable inquiry to secure that information from all reasonable and available sources, may make a demand on a bond on the basis of information in the board's possession. The board is not liable or responsible for claims or the handling of claims that may subsequently appear or be discovered.

(b) Thirty days after notification, if a claimant fails, refuses, or neglects to file with the board a verified claim, the board shall be relieved of further duty or action under this chapter on behalf of the claimant.

(c) After reviewing the claims, the board may make demands upon the bond on behalf of those claimants whose claims have been filed. The board may settle or compromise the claims with the surety and may execute and deliver a release and discharge of the bond.

(d) If the surety refuses to pay the demand, the board may bring an action on the bond in behalf of the claimants. If an action is commenced on the bond, the board may require a new bond to be filed.

(e) Within ten days after a recovery on a bond or other posted security has occurred, the institution shall file a new bond or otherwise restore its security on file to the required amount.

(6) The liability of the surety shall not exceed the amount of the bond. [1986 c 136 § 7.]

28B.85.080 Suspension or modification of requirements authorized. The board may suspend or modify any of the requirements under this chapter in a particular case if the board finds that:

(1) The suspension or modification is consistent with the purposes of this chapter; and

(2) The education to be offered addresses a substantial, demonstrated need among residents of the state or that literal application of this chapter would cause a manifestly unreasonable hardship. [1986 c 136 § 8.]

28B.85.090 Claims—Complaints—Investigations—Hearings—Orders. (1) A person claiming loss of tuition or fees as a result of an unfair business practice may file a complaint with the board. The complaint shall set forth the alleged violation and shall contain information required by the board. A complaint may also be filed with the board by an authorized staff member of the board or by the attorney general.

(2) The board shall investigate any complaint under this section and may attempt to bring about a settlement. The board may hold a hearing pursuant to the Administrative Procedure Act, chapter 34.05 RCW, in order to determine whether a violation has occurred. If the board prevails, the degree-granting institution shall pay the costs of the administrative hearing.

(3) If, after the hearing, the board finds that the institution or its agent engaged in or is engaging in any unfair business practice, the board shall issue and cause to be served upon the violator an order requiring the violator to cease and desist from the act or practice and may impose the penalties under RCW 28B.85.100. If the board finds that the complainant has suffered loss as a result of the act or practice, the board may order full or partial restitution for the loss. The complainant is not bound by the board's determination of restitution and may pursue any other legal remedy. [1989 c 175 § 82; 1986 c 136 § 9.]

Effective date—1989 c 175: See note following RCW 34.05.010.

28B.85.100 Violations—Civil penalties. Any person, group, or entity or any owner, officer, agent, or employee of such entity who wilfully violates any provision of this chapter or the rules adopted under this chapter shall be subject to a civil penalty of not more than one hundred dollars for each violation. Each day on which a violation occurs constitutes a separate violation. The fine may be imposed by the higher education coordinating board or by any court of competent jurisdiction. [1986 c 136 § 10.]

28B.85.110 Violations—Criminal sanctions. Any person, group, or entity or any owner, officer, agent, or employee of such entity who wilfully violates RCW 28B.85.030 shall be guilty of a gross misdemeanor and, upon conviction, shall be punished by a fine not to exceed one thousand dollars or by imprisonment in the county jail for a term not to exceed one year, or by both such fine and imprisonment. Each day on which a violation occurs constitutes a separate violation. The criminal sanctions may be imposed by a court of competent jurisdiction in an action brought by the attorney general of this state. [1986 c 136 § 11.]

28B.85.120. Actions resulting in jurisdiction of courts. A degree-granting institution, whether located in this state or outside of this state, that conducts business of any kind, makes any offers, advertises, solicits, or enters into any contracts in this state or with a resident of this state is

subject to the jurisdiction of the courts of this state for any cause of action arising from the acts. [1986 c 136 § 12.]

28B.85.130 Educational records—Permanent file—Protection. If any degree-granting institution discontinues its operation, the chief administrative officer of the institution shall file with the board the original or legible true copies of all educational records required by the board. If the board determines that any educational records are in danger of being made unavailable to the board, the board may seek a court order to protect and if necessary take possession of the records. The board shall cause to be maintained a permanent file of educational records coming into its possession. [1986 c 136 § 13.]

28B.85.140 Contracts voidable—When. If a student or prospective student is a resident of this state at the time any contract relating to payment for education or any note, instrument, or other evidence of indebtedness relating thereto is entered into, RCW 28B.85.150 shall govern the rights of the parties to the contract or evidence of indebtedness. If a contract or evidence of indebtedness contains any of the following agreements, the contract is voidable at the option of the student or prospective student:

- (1) That the law of another state shall apply;
- (2) That the maker or any person liable on the contract or evidence of indebtedness consents to the jurisdiction of another state;
- (3) That another person is authorized to confess judgment on the contract or evidence of indebtedness; or
- (4) That fixes venue. [1986 c 136 § 14.]

28B.85.150 Enforceability of debts—Authority to offer degree required. A note, instrument, or other evidence of indebtedness or contract relating to payment for education for a degree is not enforceable in the courts of this state by a degree-granting institution or holder of the instrument unless the institution was authorized to offer the degree under this chapter at the time the note, instrument, or other evidence of indebtedness or contract was entered into. [1986 c 136 § 15.]

28B.85.160 Actions to enforce chapter—Who may bring—Relief. The attorney general or the prosecuting attorney of any county in which a degree-granting institution or agent of the institution is found may bring an action in any court of competent jurisdiction for the enforcement of this chapter. The court may issue an injunction or grant any other appropriate form of relief. [1986 c 136 § 16.]

28B.85.170 Injunctive relief—Board may seek. The board may seek injunctive relief, after giving notice to the affected party, in a court of competent jurisdiction for a violation of this chapter or the rules adopted under this chapter. The board need not allege or prove that the board has no adequate remedy at law. The right of injunction provided in this section is in addition to any other legal remedy which the board has and is in addition to any right of criminal prosecution provided by law. The existence of board action with respect to alleged violations of this chapter and rules adopted under this chapter does not operate as a

bar to an action for injunctive relief under this section. [1986 c 136 § 17.]

28B.85.180 Violation of chapter unfair or deceptive practice under RCW 19.86.020. A violation of this chapter or the rules adopted under this chapter affects the public interest and is an unfair or deceptive act or practice in violation of RCW 19.86.020 of the consumer protection act. The remedies and sanctions provided by this section shall not preclude application of other remedies and sanctions. [1986 c 136 § 18.]

28B.85.190 Remedies and penalties in chapter nonexclusive and cumulative. The remedies and penalties provided for in this chapter are nonexclusive and cumulative and do not affect any other actions or proceedings. [1986 c 136 § 19.]

28B.85.900 Severability—1986 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. [1986 c 136 § 21.]

28B.85.902 Effective date—1986 c 136. This act shall take effect July 1, 1986. [1986 c 136 § 24.]

28B.85.905 Validity of registration under prior laws. A degree-granting institution registered under chapter 188, Laws of 1979, as amended, as of June 30, 1986, is not required to apply for authorization under chapter 28B.85 RCW until the expiration date of such registration. [1986 c 136 § 22.]

Chapter 28B.101

EDUCATIONAL OPPORTUNITY GRANT PROGRAM—PLACEBOUND STUDENTS

Sections

28B.101.005	Finding—Intent.
28B.101.010	Program created.
28B.101.020	Definition—Eligibility.
28B.101.030	Administration of program—Payments to participants.
28B.101.040	Use of grants.

28B.101.005 Finding—Intent. The legislature finds that many individuals in the state of Washington have attended college and received an associate of arts degree, or its equivalent, but are placebound.

The legislature intends to establish an educational opportunity grant program for placebound students who have completed an associate of arts degree, or its equivalent, in an effort to increase their participation in and completion of upper-division programs. [1990 c 288 § 2.]

28B.101.010 Program created. The educational opportunity grant program is hereby created as a demonstration project to serve placebound financially needy students by assisting them to obtain a baccalaureate degree at public and private institutions of higher education which have the

capacity to accommodate such students within existing educational programs and facilities. [1990 c 288 § 3.]

28B.101.020 Definition—Eligibility. (1) For the purposes of this chapter, "placebound" means unable to relocate to complete a college program because of family or employment commitments, health concerns, monetary inability, or other similar factors.

(2) To be eligible for an educational opportunity grant, applicants must be placebound residents of the state of Washington who are needy students as defined in RCW 28B.10.802(3) and who have completed the associate of arts degree or its equivalent. A placebound resident is one who may be influenced by the receipt of an enhanced student financial aid award to attend an institution that has existing unused capacity rather than attend a branch campus established pursuant to chapter 28B.45 RCW. An eligible placebound applicant is further defined as a person whose residence is located in an area served by a branch campus who, because of family or employment commitments, health concerns, monetary need, or other similar factors, would be unable to complete an upper-division course of study but for receipt of an educational opportunity grant. [1990 c 288 § 4.]

28B.101.030 Administration of program—Payments to participants. The higher education coordinating board shall develop and administer the educational opportunity grant program. The board shall adopt necessary rules and guidelines and develop criteria and procedures to select eligible participants in the program. Payment shall be made directly to the eligible participant periodically upon verification of enrollment and satisfactory progress towards degree completion. [1990 c 288 § 5.]

28B.101.040 Use of grants. Grants may be used by eligible participants to attend any public or private college or university in the state of Washington that has an existing unused capacity. Grants shall not be used to attend any branch campus or educational program established under chapter 28B.45 RCW. The participant shall not be eligible for a grant if it will be used for any programs that include religious worship, exercise, or instruction or to pursue a degree in theology. Each participating student may receive up to two thousand five hundred dollars per academic year, not to exceed the student's demonstrated financial need for the course of study. [1990 c 288 § 6.]

Chapter 28B.102

FUTURE TEACHERS CONDITIONAL SCHOLARSHIP PROGRAM

Sections

28B.102.010	Intent—Legislative findings.
28B.102.020	Definitions.
28B.102.030	Program created—Powers and duties of board.
28B.102.040	Planning committee—Development of criteria for selecting scholarship recipients.
28B.102.045	Waivers of grade point requirements.
28B.102.050	Award of conditional scholarships—Amount—Duration.
28B.102.060	Repayment obligation.

28B.102.070	Transfer of administration of program.
28B.102.900	Conditional scholarships authorized until June 30, 1994—Action by legislative budget committee and legislature.
28B.102.905	Severability—1987 c 437.

28B.102.010 Intent—Legislative findings. The legislature finds that encouraging outstanding students to enter the teaching profession is of paramount importance to the state of Washington. By creating the future teachers conditional scholarship program, the legislature intends to assist in the effort to recruit as future teachers students who have distinguished themselves through outstanding academic achievement and students who can act as role models for children including those from targeted ethnic minorities. The legislature urges business, industry, and philanthropic community organizations to join with state government in making this program successful. [1987 c 437 § 1.]

28B.102.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Conditional scholarship" means a loan that is forgiven in whole or in part if the recipient renders service as a teacher in the public schools of this state.

(2) "Institution of higher education" or "institution" means a college or university in the state of Washington which is accredited by an accrediting association recognized as such by rule of the higher education coordinating board.

(3) "Board" means the higher education coordinating board.

(4) "Eligible student" means a student who is registered for at least ten credit hours or the equivalent, demonstrates achievement of at least a 3.30 grade point average for students entering an institution of higher education directly from high school or maintains at least a 3.00 grade point average or the equivalent for each academic year in an institution of higher education, is a resident student as defined by RCW 28B.15.012 through 28B.15.015, and has a declared intention to complete an approved preparation program leading to initial teacher certification or required for earning an additional endorsement, or a college or university graduate who meets the same credit hour requirements and is seeking an additional teaching endorsement or initial teacher certification.

(5) "Public school" means an elementary school, a middle school, junior high school, or high school within the public school system referred to in Article IX of the state Constitution.

(6) "Forgiven" or "to forgive" or "forgiveness" means to render service as a teacher at a public school in the state of Washington in lieu of monetary repayment.

(7) "Satisfied" means paid-in-full.

(8) "Participant" means an eligible student who has received a conditional scholarship under this chapter.

(9) "Targeted ethnic minority" means a group of Americans with a common ethnic or racial heritage selected by the board for program consideration due to societal concerns such as high dropout rates or low rates of college participation by members of the group. [1987 c 437 § 2.]

28B.102.030 Program created—Powers and duties of board. The future teachers conditional scholarship program is established. The program shall be administered by the higher education coordinating board. In administering the program, the board shall have the following powers and duties:

- (1) Select students to receive conditional scholarships, with the assistance of a screening committee composed of teachers and leaders in government, business, and education;
- (2) Adopt necessary rules and guidelines;
- (3) Publicize the program;
- (4) Collect and manage repayments from students who do not meet their teaching obligations under this chapter; and
- (5) Solicit and accept grants and donations from public and private sources for the program. [1987 c 437 § 3.]

28B.102.040 Planning committee—Development of criteria for selecting scholarship recipients. The higher education coordinating board shall establish a planning committee to develop criteria for the screening and selection of recipients of the conditional scholarships. These criteria shall emphasize factors demonstrating excellence including but not limited to superior scholastic achievement, leadership ability, community contributions, and an ability to act as a role model for targeted ethnic minority students. These criteria also may include, for approximately half of the recipients, requirements that those recipients meet the definition of "needy student" under RCW 28B.10.802. [1987 c 437 § 4.]

28B.102.045 Waivers of grade point requirements. The board may waive grade point requirements for an otherwise eligible individual student under special circumstances. [1988 c 125 § 7.]

Severability—1988 c 125: See RCW 28B.106.902.

28B.102.050 Award of conditional scholarships—Amount—Duration. The board may award conditional scholarships to eligible students from the funds appropriated to the board for this purpose, or from any private donations, or any other funds given to the board for this program. The amount of the conditional scholarship awarded an individual shall not exceed three thousand dollars per academic year. Students are eligible to receive conditional scholarships for a maximum of five years. [1987 c 437 § 5.]

28B.102.060 Repayment obligation. (1) Participants in the conditional scholarship program incur an obligation to repay the conditional scholarship, with interest, unless they teach for ten years in the public schools of the state of Washington, under rules adopted by the board.

(2) The terms of the repayment, including deferral of the interest, shall be consistent with the terms of the federal guaranteed loan program.

(3) The period for repayment shall be ten years, with payments accruing quarterly commencing nine months from the date the participant completes or discontinues the course of study.

(4) The entire principal and interest of each payment shall be forgiven for each payment period in which the participant teaches in a public school until the entire repay-

ment obligation is satisfied or the borrower ceases to teach at a public school in this state. Should the participant cease to teach at a public school in this state before the participant's repayment obligation is completed, payments on the unsatisfied portion of the principal and interest shall begin the next payment period and continue until the remainder of the participant's repayment obligation is satisfied.

(5) The board is responsible for collection of repayments made under this section and shall exercise due diligence in such collection, maintaining all necessary records to insure that maximum repayments are made. Collection and servicing of repayments under this section shall be pursued using the full extent of the law, including wage garnishment if necessary, and shall be performed by entities approved for such servicing by the Washington student loan guaranty association or its successor agency. The board is responsible to forgive all or parts of such repayments under the criteria established in this section and shall maintain all necessary records of forgiven payments.

(6) Receipts from the payment of principal or interest or any other subsidies to which the board as administrator is entitled, which are paid by or on behalf of participants under this section, shall be deposited with the higher education coordinating board and shall be used to cover the costs of granting the conditional scholarships, maintaining necessary records, and making collections under subsection (5) of this section. The board shall maintain accurate records of these costs, and all receipts beyond those necessary to pay such costs shall be used to grant conditional scholarships to eligible students.

(7) The board shall temporarily or, in special circumstances, permanently defer the requirements of this section for eligible students as defined in RCW 28B.10.017. [1991 c 164 § 6; 1987 c 437 § 6.]

28B.102.070 Transfer of administration of program.

After consulting with the higher education coordinating board, the governor may transfer the administration of this program to another agency with an appropriate educational mission. [1987 c 437 § 7.]

28B.102.900 Conditional scholarships authorized until June 30, 1994—Action by legislative budget committee and legislature. No conditional scholarships shall be granted after June 30, 1994, until the program is reviewed by the legislative budget committee and is reenacted by the legislature. [1987 c 437 § 9.]

28B.102.905 Severability—1987 c 437. 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. [1987 c 437 § 10.]

Chapter 28B.104

NURSES CONDITIONAL SCHOLARSHIP PROGRAM

Sections

28B.104.060 Repayment obligation.

28B.104.060 Repayment obligation.

Reviser's note: RCW 28B.104.060 was both amended and repealed during the 1991 legislative session, each without reference to the other. It has been decodified for publication purposes pursuant to RCW 1.12.025.

Chapter 28B.106

COLLEGE SAVINGS BOND PROGRAM

Sections

28B.106.005	Findings—Purpose.
28B.106.010	Definitions.
28B.106.020	Bond authorization—Issuance—Requirements.
28B.106.030	Bond sale proceeds—Deposit—Use.
28B.106.040	Higher education bond retirement fund of 1988—Creation—Use.
28B.106.050	Additional means to raise money for bond retirement.
28B.106.060	Bonds to be legal investment.
28B.106.070	Publicity—Marketing strategies and educational programs.
28B.106.080	Interest on bonds exempt from any state income tax.
28B.106.900	Report to governor and legislature.
28B.106.901	Short title.
28B.106.902	Severability—1988 c 125.

28B.106.005 Findings—Purpose. The legislature finds it essential that this and future generations of children be allowed the fullest opportunity to learn and to develop their intellectual and mental capacities and skills at the postsecondary level. The legislature is greatly concerned about the ever-increasing costs of obtaining higher education. The purpose of this chapter is to assist Washington residents in their quest for higher education and to encourage financial planning to meet higher education costs by creating a college savings bond program. [1988 c 125 § 8.]

28B.106.010 Definitions. The following definitions shall apply throughout this chapter, unless the context clearly indicates otherwise:

(1) "College savings bonds" or "bonds" are Washington state general obligation bonds, issued under the authority of and in accordance with this chapter.

(2) "Board" means the higher education coordinating board, or any successor thereto. [1988 c 125 § 9.]

28B.106.020 Bond authorization—Issuance—Requirements. For the purpose of providing funds for the acquisition, construction, remodeling, furnishing, and equipping of state buildings and facilities for the state institutions of higher education, including facilities for the *state community college system, and to provide for the administrative costs of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of credit enhancement agreements, and other expenses incidental to the administration of capital projects, the state finance committee is authorized to issue college savings bonds of the state of

Washington in the sum of fifty million dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto.

Bonds authorized in this section shall be sold in such a manner, at such time or times, in such amounts, and at such price as the state finance committee shall determine. The bonds shall not be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. The state finance committee may obtain insurance or letters of credit and may authorize the execution and delivery of agreements, promissory notes, and other obligations for the purpose of insuring the payment or enhancing the marketability of college savings bonds authorized in this section. Promissory notes or other obligations issued pursuant to this section shall not constitute a debt or the contracting of indebtedness under any constitutional or statutory indebtedness limitation if their payment is conditioned upon the failure of the state to pay the principal of or interest on the bonds with respect to which the same relate.

If, and to the extent that the state finance committee determines it is economically feasible and in the best interest of the state, the bonds shall be sold at a deep discount from their par value.

College savings bonds authorized under this section shall be sold in accordance with chapter 39.42 RCW. [1988 c 125 § 10.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

28B.106.030 Bond sale proceeds—Deposit—Use. The proceeds from the sale of the bonds authorized in RCW 28B.106.020 shall be deposited in the state building construction account of the general fund in the state treasury, and shall be used exclusively for the purposes specified in RCW 28B.106.020 and for the payment of expenses incurred in the issuance and sale of the college savings bonds. [1988 c 125 § 11.]

28B.106.040 Higher education bond retirement fund of 1988—Creation—Use. The state higher education bond retirement fund of 1988 is hereby created in the state treasury, and shall be used for the payment of principal and interest on the college savings bonds.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on such bonds in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state higher education bond retirement fund of 1988, such amounts and at such times as are required by the bond proceedings. If directed by the state finance committee by resolution, the state higher education bond retirement fund of 1988, or any portion thereof, may be deposited in trust with any qualified public depository.

The owner and holder of each of the college savings bonds or the trustee for the owner and holder of any of the college savings bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1988 c 125 § 12.]

28B.106.050 Additional means to raise money for bond retirement. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the college savings bonds. RCW 28B.106.040 shall not be deemed to provide an exclusive method for the payment thereof. [1988 c 125 § 13.]

28B.106.060 Bonds to be legal investment. The college savings bonds shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1988 c 125 § 14.]

28B.106.070 Publicity—Marketing strategies and educational programs. The board and the state finance committee shall create and implement marketing strategies and educational programs designed to publicize the college savings bond program to Washington residents. [1988 c 125 § 16.]

28B.106.080 Interest on bonds exempt from any state income tax. Any interest earned on the bonds shall not be income for the purposes of any state income tax. [1988 c 125 § 17.]

28B.106.900 Report to governor and legislature. The board and the state finance committee shall evaluate the effectiveness of the college savings bond program created by this chapter, and shall submit a report about the program, and recommended changes, to the governor and the appropriate standing committees of the senate and house of representatives on or before December 1, 1990. In the report, the board shall consider the advisability of offering incentives to purchase college savings bonds. [1988 c 125 § 15.]

28B.106.901 Short title. This chapter may be known and cited as the college savings bond act of 1988. [1988 c 125 § 18.]

28B.106.902 Severability—1988 c 125. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1988 c 125 § 20.]

Chapter 28B.107

PACIFIC RIM LANGUAGE SCHOLARSHIP PROGRAM

Sections

28B.107.005	Findings.
28B.107.010	Definitions.
28B.107.020	Program created—Duties of the higher education coordinating board.
28B.107.030	Selection of scholarship recipients.
28B.107.040	Scholarships—Conditions—Sources of funds.
28B.107.050	Report—Recommendations.
28B.107.900	Expiration date—1990 c 243.

Teacher exchange programs: RCW 28A.300.200.

28B.107.005 Findings. The legislature finds that it is important to the economic future of Washington state to promote international awareness and understanding. The legislature intends to complement the provisions of chapter 28A.630 RCW by encouraging high school students to study Pacific Rim languages, promote teacher exchanges with Pacific Rim nations, and allow nonimmigrant aliens to serve as exchange teachers for more than one year. [1990 c 243 § 1.]

28B.107.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Washington state Pacific Rim language scholarship" means a scholarship awarded, for a period not to exceed one year, to a student proficient in speaking one of the following languages: Spanish, Russian, Chinese, and Japanese.

(2) "Institution of higher education" or "institution" means a college or university in the state of Washington that is accredited by an accrediting association recognized as such by rule of the higher education coordinating board.

(3) "Board" means the higher education coordinating board.

(4) "Student" means a high school senior who is a proficient speaker of a Pacific Rim language, and who intends to enroll in an institution of higher education within one year of high school graduation. [1990 c 243 § 2.]

28B.107.020 Program created—Duties of the higher education coordinating board. The Washington state Pacific Rim language scholarship program is created. The program shall be administered by the higher education coordinating board. In administering the program, the board shall have the following powers and duties:

(1) Select students to receive the scholarships with the assistance of a screening committee composed of leaders in government, business, and education;

(2) Adopt necessary rules and guidelines;

(3) Publicize the program; and

(4) Solicit and accept grants and donations from public and private sources for the program. [1990 c 243 § 3.]

28B.107.030 Selection of scholarship recipients. The board shall select up to four students yearly from each congressional district to receive a Washington state Pacific Rim scholarship from funds appropriated for this purpose. Of the four students selected, one student shall be a proficient speaker of Spanish, one of Russian, one of Japanese, and one of Chinese. Using measures as objective as possible, the board shall select students who have shown the most improvement in their ability to speak the language during their high school careers. [1990 c 243 § 4.]

28B.107.040 Scholarships—Conditions—Sources of funds. Scholarships shall not exceed one thousand dollars per student. The scholarship shall not be disbursed to the student until the student is enrolled at an institution of higher education. The board may also use private donations or any other funds given to the board for this program to make additional scholarship awards. [1990 c 243 § 5.]

28B.107.050 Report—Recommendations. By October 30, 1995, the board shall report on the program to the governor and the house of representatives and senate committees on higher education. The report shall include a recommendation on whether to expand the number of languages included, and whether to expand the program to students in each legislative district. [1990 c 243 § 6.]

28B.107.900 Expiration date—1990 c 243. This chapter shall expire June 30, 1996, and no scholarships shall be granted after June 30, 1996. [1990 c 243 § 8.]

Chapter 28B.108

AMERICAN INDIAN ENDOWED SCHOLARSHIP PROGRAM

Sections

28B.108.005	Findings.
28B.108.010	Definitions.
28B.108.020	Program created—Duties of the higher education coordinating board—Screening committee.
28B.108.030	Advisory committee.
28B.108.040	Award of scholarships—Amount—Duration.
28B.108.050	Scholarship trust fund established.
28B.108.060	Scholarship endowment fund established.
28B.108.070	State matching funds.

28B.108.005 Findings. The legislature recognizes the benefit to our state and nation of providing equal educational opportunities for all races and nationalities. The legislature finds that American Indian students are underrepresented in Washington's colleges and universities. The legislature also finds that past discriminatory practices have resulted in this underrepresentation. Creating an endowed scholarship program to help American Indian students obtain a higher education will help to rectify past discrimination by providing a means and an incentive for American Indian students to pursue a higher education. The state will benefit from contributions made by American Indians who participate in a program of higher education. [1990 c 287 § 1.]

28B.108.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Institution of higher education" or "institution" means a college or university in the state of Washington which is accredited by an accrediting association recognized as such by rule of the higher education coordinating board.

(2) "Board" means the higher education coordinating board.

(3) "Eligible student" or "student" means an American Indian who is a financially needy student, as defined in RCW 28B.10.802, who is a resident student, as defined by RCW 28B.15.012(2), who is a full-time student at an institution of higher education, and who promises to use his or her education to benefit other American Indians. [1991 c 228 § 10; 1990 c 287 § 2.]

28B.108.020 Program created—Duties of the higher education coordinating board—Screening committee. The American Indian endowed scholarship program is created. The program shall be administered by the higher

education coordinating board. In administering the program, the board's powers and duties shall include but not be limited to:

(1) Selecting students to receive scholarships, with the assistance of a screening committee composed of persons involved in helping American Indian students to obtain a higher education. The membership of the committee may include, but is not limited to representatives of: Indian tribes, urban Indians, the governor's office of Indian affairs, the Washington state Indian education association, and institutions of higher education;

(2) Adopting necessary rules and guidelines;

(3) Publicizing the program;

(4) Accepting and depositing donations into the endowment fund created in RCW 28B.108.060;

(5) Requesting and accepting from the state treasurer moneys earned from the trust fund and the endowment fund created in RCW 28B.108.050 and 28B.108.060;

(6) Soliciting and accepting grants and donations from public and private sources for the program; and

(7) Naming scholarships in honor of those American Indians from Washington who have acted as role models. [1990 c 287 § 3.]

28B.108.030 Advisory committee. The higher education coordinating board shall establish an advisory committee to assist in program design and to develop criteria for the screening and selection of scholarship recipients. The committee shall be composed of representatives of the same groups as the screening committee described in RCW 28B.108.020. The criteria shall assess the student's social and cultural ties to an American Indian community within the state. The criteria shall include a priority for upper-division or graduate students. The criteria may include a priority for students who are majoring in program areas in which expertise is needed by the state's American Indians. [1991 c 228 § 11; 1990 c 287 § 4.]

28B.108.040 Award of scholarships—Amount—Duration. The board may award scholarships to eligible students from moneys earned from the endowment fund created in RCW 28B.108.060, or from funds appropriated to the board for this purpose, or from any private donations, or from any other funds given to the board for this program. For an undergraduate student, the amount of the scholarship shall not exceed the student's demonstrated financial need. For a graduate student, the amount of the scholarship shall not exceed the student's demonstrated need; or the stipend of a teaching assistant, including tuition, at the University of Washington; whichever is higher. In calculating a student's need, the board shall consider the student's costs for tuition, fees, books, supplies, transportation, room, board, personal expenses, and child care. The student's scholarship awarded under this chapter shall not exceed the amount received by a student attending a state research university. A student is eligible to receive a scholarship for a maximum of five years. However, the length of the scholarship shall be determined at the discretion of the board. [1990 c 287 § 5.]

28B.108.050 Scholarship trust fund established. The American Indian endowed scholarship trust fund is

established. The trust fund shall be administered by the state treasurer. Funds appropriated by the legislature for the trust fund shall be deposited into the fund. At the request of the higher education coordinating board, and when conditions set forth in RCW 28B.108.070 are met, the treasurer shall deposit state matching moneys in the trust fund into the American Indian endowment fund. No appropriation is required for expenditures from the trust fund. [1991 sp.s. c 13 § 107; 1990 c 287 § 6.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

28B.108.060 Scholarship endowment fund established. The American Indian scholarship endowment fund is established. The endowment fund shall be administered by the state treasurer. Moneys received from the higher education coordinating board, private donations, state matching moneys, and funds received from any other source may be deposited into the endowment fund. At the request of the higher education coordinating board, the treasurer shall release earnings from the endowment fund to the board for scholarships. No appropriation is required for expenditures from the endowment fund.

The principal of the endowment fund shall not be invaded. The earnings on the fund shall be used solely for the purposes set forth in RCW 28B.108.040. [1991 sp.s. c 13 § 110; 1990 c 287 § 7.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

28B.108.070 State matching funds. The higher education coordinating board may request that the treasurer deposit fifty thousand dollars of state matching funds into the American Indian scholarship endowment fund when the board can match the state funds with an equal amount of private cash donations. Private cash donations means moneys from nonstate sources that include, but are not limited to, federal moneys, tribal moneys, and assessments by commodity commissions authorized to conduct research activities, including but not limited to research studies authorized under RCW 15.66.030 and 15.65.040. [1991 c 228 § 12; 1990 c 287 § 8.]

Chapter 28B.110

GENDER EQUALITY IN HIGHER EDUCATION

Sections

28B.110.010	Discrimination prohibited.
28B.110.020	Definitions.
28B.110.030	Rules and guidelines.
28B.110.040	Compliance—Reports—Community colleges.
28B.110.050	Violation of chapter.
28B.110.060	Existing law and procedures.
28B.110.070	Distribution to students.
28B.110.900	Severability—1989 c 341.

28B.110.010 Discrimination prohibited. Article XXXI, section 1, Amendment 61 of the Washington state Constitution requires equal treatment of all citizens, regardless of gender. Recognizing the benefit to our state and nation of equal educational opportunities for all students, discrimination on the basis of gender against any student in

the institutions of higher education of Washington state is prohibited. [1989 c 341 § 1.]

28B.110.020 Definitions. For purposes of this chapter, "institutions of higher education" or "institutions" include the state universities, regional universities, The Evergreen State College, and the community colleges. [1989 c 341 § 2.]

28B.110.030 Rules and guidelines. In consultation with institutions of higher education, the higher education coordinating board shall develop rules and guidelines to eliminate possible gender discrimination to students, including sexual harassment, at institutions of higher education as defined in RCW 28B.10.016. The rules and guidelines shall include but not be limited to access to academic programs, student employment, counseling and guidance services, financial aid, recreational activities including club sports, and intercollegiate athletics.

(1) With respect to higher education student employment, all institutions shall be required to:

(a) Make no differentiation in pay scales on the basis of gender;

(b) Assign duties without regard to gender except where there is a bona fide occupational qualification as approved by the Washington human rights commission;

(c) Provide the same opportunities for advancement to males and females; and

(d) Make no difference in the conditions of employment on the basis of gender in areas including, but not limited to, hiring practices, leaves of absence, and hours of employment.

(2) With respect to admission standards, admissions to academic programs shall be made without regard to gender.

(3) Counseling and guidance services for students shall be made available to all students without regard to gender. All academic and counseling personnel shall be required to stress access to all career and vocational opportunities to students without regard to gender.

(4) All academic programs shall be available to students without regard to gender.

(5) With respect to recreational activities, recreational activities shall be offered to meet the interests of students. Institutions which provide the following shall do so with no disparities based on gender: Equipment and supplies; medical care; services and insurance; transportation and per diem allowances; opportunities to receive coaching and instruction; laundry services; assignment of game officials; opportunities for competition, publicity, and awards; and scheduling of games and practice times, including use of courts, gyms, and pools. Each institution which provides showers, toilets, lockers, or training room facilities for recreational purposes shall provide comparable facilities for both males and females.

(6) With respect to financial aid, financial aid shall be equitably awarded by type of aid, with no disparities based on gender.

(7) With respect to intercollegiate athletics, institutions that provide the following shall do so with no disparities based on gender:

(a) Benefits and services including, but not limited to, equipment and supplies; medical services; services and insurance; transportation and per diem allowances; opportunities to receive coaching and instruction; scholarships and other forms of financial aid; conditioning programs; laundry services; assignment of game officials; opportunities for competition, publicity, and awards; and scheduling of games and practice times, including use of courts, gyms, and pools. Each institution which provides showers, toilets, lockers, or training room facilities for athletic purposes shall provide comparable facilities for both males and females.

(b) Opportunities to participate in intercollegiate athletics. Institutions shall provide equitable opportunities to male and female students.

(c) Male and female coaches and administrators. Institutions shall attempt to provide some coaches and administrators of each gender to act as role models for male and female athletes.

(8) Each institution shall develop and distribute policies and procedures for handling complaints of sexual harassment. [1989 c 341 § 3.]

28B.110.040 Compliance—Reports—Community colleges. The executive director of the higher education coordinating board, in consultation with the council of presidents and the *state board for community college education, shall monitor the compliance by institutions of higher education with this chapter.

(1) The board shall establish a timetable and guidelines for compliance with this chapter.

(2) By September 30, 1990, each institution shall complete a self-study on its compliance with the requirements listed in RCW 28B.110.030.

(3) By November 30, 1990, each institution shall submit to the board for approval a plan to comply with the requirements of RCW 28B.110.030. The plan shall contain measures to ensure institutional compliance with the provisions of this chapter by September 30, 1994. If participation in activities, such as intercollegiate athletics and matriculation in academic programs is not proportionate to the percentages of male and female enrollment, the plan should outline efforts to identify barriers to equal participation and to encourage gender equity in all aspects of college and university life.

(4) The board shall report biennially, beginning December 31, 1990, to the governor and the higher education committees of the house of representatives and the senate on institutional efforts to comply with this chapter. The report shall include recommendations on measures to assist institutions with compliance.

(5) The board may delegate to the *state board for community college education any or all responsibility for community college compliance with the provisions of this chapter. [1989 c 341 § 4.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

28B.110.050 Violation of chapter. A violation of this chapter shall constitute an unfair practice under chapter 49.60 RCW, the law against discrimination. All rights and remedies under chapter 49.60 RCW, including the right to

file a complaint with the human rights commission and to bring a civil action, shall apply. [1989 c.341 § 5.]

28B.110.060 Existing law and procedures. This chapter shall supplement, and shall not supersede, existing law and procedures relating to unlawful discrimination based on gender. [1989 c 341 § 6.]

28B.110.070 Distribution to students. Institutions of higher education shall distribute copies of the provisions of this chapter to all students. [1989 c 341 § 7.]

28B.110.900 Severability—1989 c 341. 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. [1989 c 341 § 8.]

Chapter 28B.115

HEALTH PROFESSIONAL CONDITIONAL SCHOLARSHIP PROGRAM

Sections

28B.115.010	Legislative findings.
28B.115.020	Definitions.
28B.115.030	Program established—Duties of board.
28B.115.040	Technical assistance for rural communities.
28B.115.050	Planning committee—Criteria for selecting participants.
28B.115.060	Eligible credentialed health care professions—Required service obligations.
28B.115.070	Eligible credentialed health care professions—Health professional shortage areas.
28B.115.080	Annual award amount—Scholarship preferences—Required service obligations.
28B.115.090	Loan repayment and scholarship awards.
28B.115.100	Discrimination by participants prohibited—Violation.
28B.115.110	Participant obligation—Repayment obligation.
28B.115.120	Participant obligation—Scholarships.
28B.115.130	Health professional loan repayment and scholarship program fund.
28B.115.140	Transfer of program administration.
28B.115.900	Effective date—1989 1st ex.s. c 9.
28B.115.901	Severability—1989 1st ex.s. c 9.
28B.115.902	Application to scope of chapter—Captions not law—1991 c 332.

Rural health access account: RCW 43.70.325.

28B.115.010 Legislative findings. The legislature finds that changes in demographics, the delivery of health care services, and an escalation in the cost of educating health professionals has resulted in shortages of health professionals. A poor distribution of health care professionals has resulted in a surplus of some professionals in some areas of the state and a shortage of others in other parts of the state such as in the more rural areas. The high cost of health professional education requires that health care practitioners command higher incomes to repay the financial obligations incurred to obtain the required training. Health professional shortage areas are often areas that have troubled economies and lower per capita incomes. These areas often require more services because the health care needs are greater due to poverty or because the areas are difficult to service due to geographic circumstances. The salary

potentials for shortage areas are often not as favorable when compared to nonshortage areas and practitioners are unable to serve. The legislature further finds that encouraging health professionals to serve in shortage areas is essential to assure continued access to health care for persons living in these parts of the state. [1989 1st ex.s. c 9 § 716. Formerly RCW 18.150.010.]

28B.115.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Board" means the higher education coordinating board.

(2) "Department" means the state department of health.

(3) "Eligible education and training programs" means education and training programs approved by the department that lead to eligibility for a credential as a credentialed health care professional.

(4) "Eligible expenses" means reasonable expenses associated with the costs of acquiring an education such as tuition, books, equipment, fees, room and board, and other expenses determined by the board.

(5) "Eligible student" means a student who has been accepted into an eligible education or training program and has a declared intention to serve in a health professional shortage area upon completion of the education or training program.

(6) "Forgiven" or "to forgive" or "forgiveness" means to render health care services in a health professional shortage area in the state of Washington in lieu of monetary repayment.

(7) "Health professional shortage areas" means those areas where credentialed health care professionals are in short supply as a result of geographic maldistribution or as the result of a short supply of credentialed health care professionals in specialty health care areas and where vacancies exist in serious numbers that jeopardize patient care and pose a threat to the public health and safety. The department shall determine health professional shortage areas as provided for in RCW 28B.115.070, or until June 1, 1992, as provided for in RCW 28B.115.060. In making health professional shortage area designations in the state the department may be guided by applicable federal standards for "health manpower shortage areas," and "medically underserved areas," and "medically underserved populations."

(8) "Credentialed health care profession" means a health care profession regulated by a disciplining authority in the state of Washington under RCW 18.130.040 or by the state board of pharmacy under chapter 18.64 RCW and designated by the department in RCW 28B.115.070, or until June 1, 1992, as established in RCW 28B.115.060 as a profession having shortages of credentialed health care professionals in the state.

(9) "Credentialed health care professional" means a person regulated by a disciplining authority in the state of Washington to practice a health care profession under RCW 18.130.040 or by the state board of pharmacy under chapter 18.64 RCW.

(10) "Loan repayment" means a loan that is paid in full or in part if the participant renders health care services in a

health professional shortage area as defined by the department.

(11) "Nonshortage rural area" means a nonurban area of the state of Washington that has not been designated as a rural physician shortage area. The department shall identify the nonshortage rural areas of the state.

(12) "Participant" means a credentialed health care professional who has received a loan repayment award and has commenced practice as a credentialed health care provider in a designated health professional shortage area or an eligible student who has received a scholarship under this program.

(13) "Program" means the health professional loan repayment and scholarship program.

(14) "Required service obligation" means an obligation by the participant to provide health care services in a health professional shortage area for a period to be established as provided for in this chapter.

(15) "Rural physician shortage area" means rural geographic areas where primary care physicians are in short supply as a result of geographic maldistributions and where their limited numbers jeopardize patient care and pose a threat to public health and safety. The department shall designate rural physician shortage areas.

(16) "Satisfied" means paid-in-full.

(17) "Scholarship" means a loan that is forgiven in whole or in part if the recipient renders health care services in a health professional shortage area.

(18) "Sponsoring community" means a rural hospital or hospitals as authorized in chapter 70.41 RCW, a rural health care facility or facilities as authorized in chapter 70.175 RCW, or a city or county government or governments. [1991 c 332 § 15; 1989 1st ex.s. c 9 § 717. Formerly RCW 18.150.020.]

28B.115.030 Program established—Duties of board.

The health professional loan repayment and scholarship program is established for credentialed health professionals serving in health professional shortage areas. The program shall be administered by the higher education coordinating board. In administering this program, the board shall:

(1) Select credentialed health care professionals to participate in the loan repayment portion of the loan repayment and scholarship program and select eligible students to participate in the scholarship portion of the loan repayment and scholarship program;

(2) Adopt rules and develop guidelines to administer the program;

(3) Collect and manage repayments from participants who do not meet their service obligations under this chapter;

(4) Publicize the program, particularly to maximize participation among individuals in shortage areas and among populations expected to experience the greatest growth in the work force;

(5) Solicit and accept grants and donations from public and private sources for the program; and

(6) Develop criteria for a contract for service in lieu of the service obligation where appropriate, that may be a combination of service and payment. [1991 c 332 § 16; 1989 1st ex.s. c 9 § 718. Formerly RCW 18.150.030.]

28B.115.040 Technical assistance for rural communities. The department may provide technical assistance to rural communities desiring to become sponsoring communities for the purposes of identification of prospective students for the program, assisting prospective students to apply to an eligible education and training program, making formal agreements with prospective students to provide credentialed health care services in the community, forming agreements between rural communities in a service area to share credentialed health care professionals, and fulfilling any matching requirements. [1991 c 332 § 17.]

28B.115.050 Planning committee—Criteria for selecting participants. The board shall establish a planning committee to assist it in developing criteria for the selection of participants. The board shall include on the planning committee representatives of the department, the department of social and health services, appropriate representatives from health care facilities, provider groups, consumers, the *state board of community college education, the superintendent of public instruction, and other appropriate public and private agencies and organizations. The criteria may require that some of the participants meet the definition of "needy student" under RCW 28B.10.802. [1991 c 332 § 18; 1989 1st ex.s. c 9 § 719. Formerly RCW 18.150.040.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

28B.115.060 Eligible credentialed health care professions—Required service obligations. Until June 1, 1992, the board, in consultation with the department, shall:

(1) Establish loan repayments for persons authorized to practice one of the following credentialed health care professions: Medicine pursuant to chapter 18.57, 18.57A, 18.71 or 18.71A RCW, nursing pursuant to chapter 18.78 or 18.88 RCW, or dentistry pursuant to chapter 18.32 RCW. The amount of the loan repayment shall not exceed fifteen thousand dollars per year for a maximum of five years per individual. The required service obligation in a health professional shortage area for loan repayment shall be three years;

(2) Establish a scholarship program for eligible students who have been accepted into an eligible education or training program leading to a credential in one of the following credentialed health care professions: Nursing pursuant to chapter 18.78 or 18.88 RCW who declare the intent to serve in a nurse shortage area as defined by the department upon completion of an education or training program and agree to a five-year service obligation. The amount of the scholarship shall not exceed three thousand dollars per year for a maximum of five years;

(3) Establish a scholarship program for eligible students who have been accepted into an eligible education or training program leading to a credential in one of the following credentialed health care professions: Medicine pursuant to chapter 18.57 or 18.71 RCW who declare an intent to serve as a primary care physician in a rural area in the state of Washington upon completion of the education program and agree to a five-year service obligation and who may receive a scholarship of no more than fifteen thousand dollars per year for five years.

In determining scholarship awards for prospective physicians, the selection criteria shall include requirements that recipients declare an interest in serving in rural areas of the state of Washington. Preference for scholarships shall be given to students who reside in a rural physician shortage area or a nonshortage rural area of the state prior to admission to the eligible education and training program in medicine. Highest preference shall be given to students seeking admission who are recommended by sponsoring communities and who declare the intent of serving as a physician in a rural area. The board may require the sponsoring community located in a nonshortage rural area to financially contribute to the eligible expenses of a medical student if the student will serve in the nonshortage rural area;

(4) Establish a scholarship program for eligible students who have been accepted into an eligible education or training program leading to a credential in one of the following credentialed health care professions: Midwifery pursuant to chapter 18.50 RCW or advanced registered nurse practitioner certified nurse midwifery under chapter 18.88 RCW who declare an intent to serve as a midwife in a midwifery shortage area in the state of Washington, as defined by the department, upon completion of the education program and agree to a five-year service obligation and who may receive a scholarship of no more than four thousand dollars per year for three years;

(5) Establish a scholarship program for eligible students who have been accepted into an eligible education or training program leading to a credential in the following credentialed health care profession: Pharmacy pursuant to chapter 18.64 RCW who declare an intent to serve as a pharmacist in a pharmacy shortage area in the state of Washington, as defined by the department, upon completion of the education program and agree to a five-year service obligation and who may receive a scholarship of no more than four thousand dollars per year for three years;

(6) Honor loan repayment and scholarship contract terms negotiated between the board and participants prior to May 21, 1991, concerning loan repayment and scholarship award amounts and service obligations authorized under chapter *18.150, 28B.104, or 70.180 RCW. [1991 c 332 § 19.]

*Reviser's note: Chapter 18.150 RCW was recodified as chapter 28B.115 RCW by 1991 c 332 § 36.

28B.115.070 Eligible credentialed health care professions—Health professional shortage areas. After June 1, 1992, the department, in consultation with the board and the department of social and health services, shall:

(1) Determine eligible credentialed health care professions for the purposes of the loan repayment and scholarship program authorized by this chapter. Eligibility shall be based upon an assessment that determines that there is a shortage or insufficient availability of a credentialed profession so as to jeopardize patient care and pose a threat to the public health and safety. The department shall consider the relative degree of shortages among professions when determining eligibility. This determination shall be based upon health professional shortage needs identified in the health personnel resource plan authorized by RCW 28B.125.010. The department may add or remove profes-

sions from eligibility based upon the determination that a profession is no longer in shortage as determined by the health personnel resource plan. Should a profession no longer be eligible, participants or eligible students who have received scholarships shall be eligible to continue to receive scholarships or loan repayments until they are no longer eligible or until their service obligation has been completed;

(2) Determine health professional shortage areas for each of the eligible credentialed health care professions. [1991 c 332 § 20.]

28B.115.080 Annual award amount—Scholarship preferences—Required service obligations. After June 1, 1992, the board, in consultation with the department and the department of social and health services, shall:

(1) Establish the annual award amount for each credentialed health care profession which shall be based upon an assessment of reasonable annual eligible expenses involved in training and education for each credentialed health care profession. The annual award amount may be established at a level less than annual eligible expenses. The annual award amount shall not be more than fifteen thousand dollars per year. The awards shall not be paid for more than a maximum of five years per individual;

(2) Determine any scholarship awards for prospective physicians in such a manner to require the recipients declare an interest in serving in rural areas of the state of Washington. Preference for scholarships shall be given to students who reside in a rural physician shortage area or a nonshortage rural area of the state prior to admission to the eligible education and training program in medicine. Highest preference shall be given to students seeking admission who are recommended by sponsoring communities and who declare the intent of serving as a physician in a rural area. The board may require the sponsoring community located in a nonshortage rural area to financially contribute to the eligible expenses of a medical student if the student will serve in the nonshortage rural area;

(3) Establish the required service obligation for each credentialed health care profession, which shall be no less than three years or no more than five years. The required service obligation may be based upon the amount of the scholarship or loan repayment award such that higher awards involve longer service obligations on behalf of the participant;

(4) Determine eligible education and training programs for purposes of the scholarship portion of the program;

(5) Honor loan repayment and scholarship contract terms negotiated between the board and participants prior to May 21, 1991, concerning loan repayment and scholarship award amounts and service obligations authorized under chapter *18.150, 28B.104, or 70.180 RCW. [1991 c 332 § 21.]

*Reviser's note: Chapter 18.150 RCW was recodified as chapter 28B.115 RCW by 1991 c 332 § 36.

28B.115.090 Loan repayment and scholarship awards. (1) The board may grant loan repayment and scholarship awards to eligible participants from the funds appropriated for this purpose, or from any private or public funds given to the board for this purpose. Participants are

ineligible to receive loan repayment if they have received a scholarship from programs authorized under this chapter or chapter *28B.104 or 70.180 RCW or are ineligible to receive a scholarship if they have received loan repayment authorized under this chapter or **chapter 18.150 RCW.

(2) Funds appropriated for the program, including reasonable administrative costs, may be used by the board for the purposes of loan repayments or scholarships. The board shall annually establish the total amount of funding to be awarded for loan repayments and scholarships and such allocations shall be established based upon the best utilization of funding for that year and based upon the health personnel resource plan authorized in RCW 28B.125.010.

(3) One portion of the funding appropriated for the program shall be used by the board as a recruitment incentive for communities participating in the community-based recruitment and retention program as authorized by chapter 70.185 RCW; one portion of the funding shall be used by the board as a recruitment incentive for recruitment activities in state-operated institutions, county public health departments and districts, county human service agencies, federal and state contracted community health clinics, and other health care facilities, such as rural hospitals that have been identified by the department, as providing substantial amounts of charity care or publicly subsidized health care; one portion of the funding shall be used by the board for all other awards. The board shall determine the amount of total funding to be distributed between the three portions. [1991 c 332 § 22; 1989 1st ex.s. c 9 § 720. Formerly RCW 18.150.050.]

Reviser's note: *(1) Chapter 28B.104 RCW was repealed by 1991 sp.s. c 27 § 2.

***(2) Chapter 18.150 RCW was recodified as chapter 28B.115 RCW by 1991 c 332 § 36.

28B.115.100 Discrimination by participants prohibited—Violation. In providing health care services the participant shall not discriminate against a person on the basis of the person's ability to pay for such services or because payment for the health care services provided to such persons will be made under the insurance program established under part A or B of Title XVIII of the federal social security act or under a state plan for medical assistance including Title XIX of the federal social security act or under the state medical assistance program authorized by chapter 74.09 RCW and agrees to accept assignment under section 18.42(b)(3)(B)(ii) of the federal social security act for all services for which payment may be made under part B of Title XVIII of the federal social security act and enters into an appropriate agreement with the department of social and health services for medical assistance under Title XIX of the federal social security act to provide services to individuals entitled to medical assistance under the plan and enters into appropriate agreements with the department of social and health services for medical care services under chapter 74.09 RCW. Participants found by the board or the department in violation of this section shall be declared ineligible for receiving assistance under the program authorized by this chapter. [1991 c 332 § 23.]

28B.115.110 Participant obligation—Repayment obligation. Participants in the health professional loan

repayment and scholarship program who are awarded loan repayments shall receive payment from the program for the purpose of repaying educational loans secured while attending a program of health professional training which led to a credential as a credentialed health professional in the state of Washington.

(1) Participants shall agree to meet the required service obligation in a designated health professional shortage area.

(2) Repayment shall be limited to eligible educational and living expenses as determined by the board and shall include principal and interest.

(3) Loans from both government and private sources may be repaid by the program. Participants shall agree to allow the board access to loan records and to acquire information from lenders necessary to verify eligibility and to determine payments. Loans may not be renegotiated with lenders to accelerate repayment.

(4) Repayment of loans established pursuant to this program shall begin no later than ninety days after the individual has become a participant. Payments shall be made quarterly, or more frequently if deemed appropriate by the board, to the participant until the loan is repaid or the participant becomes ineligible due to discontinued service in a health professional shortage area or after the required service obligation when eligibility discontinues, whichever comes first.

(5) Should the participant discontinue service in a health professional shortage area payments against the loans of the participants shall cease to be effective on the date that the participant discontinues service.

(6) Except for circumstances beyond their control, participants who serve less than the required service obligation shall be obligated to repay to the program an amount equal to twice the total amount paid by the program on their behalf in addition to any payments on the unsatisfied portion of the principal and interest. The board shall determine the applicability of this subsection.

(7) The board is responsible for the collection of payments made on behalf of participants from the participants who discontinue service before completion of the required service obligation. The board shall exercise due diligence in such collection, maintaining all necessary records to ensure that the maximum amount of payment made on behalf of the participant is recovered. Collection under this section shall be pursued using the full extent of the law, including wage garnishment if necessary.

(8) The board shall not be held responsible for any outstanding payments on principal and interest to any lenders once a participant's eligibility expires.

(9) The board shall temporarily or, in special circumstances, permanently defer the requirements of this section for eligible students as defined in RCW 28B.10.017. [1991 c 332 § 24; 1991 c 164 § 8; 1989 1st ex.s. c 9 § 721. Formerly RCW 18.150.060.]

Reviser's note: This section was amended by 1991 c 164 § 8 and by 1991 c 332 § 24, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

28B.115.120 Participant obligation—Scholarships.

(1) Participants in the health professional loan repayment and scholarship program who are awarded scholarships incur an

obligation to repay the scholarship, with interest, unless they serve the required service obligation in a health professional shortage area in the state of Washington.

(2) The terms of the repayment, including deferral and rate of interest, shall be consistent with the terms of the federal guaranteed student loan program.

(3) The period for repayment shall coincide with the required service obligation, with payments accruing quarterly commencing no later than nine months from the date the participant completes or discontinues the course of study or completes or discontinues the required residency.

(4) The entire principal and interest of each payment shall be forgiven for each payment period in which the participant serves in a health professional shortage area until the entire repayment obligation is satisfied or the borrower ceases to so serve. Should the participant cease to serve in a health professional shortage area of this state before the participant's repayment obligation is completed, payments on the unsatisfied portion of the principal and interest shall begin the next payment period and continue until the remainder of the participant's repayment obligation is satisfied. Except for circumstances beyond their control, participants who serve less than the required service obligation shall be obliged to repay to the program an amount equal to twice the total amount paid by the program on their behalf.

(5) The board is responsible for collection of repayments made under this section and shall exercise due diligence in such collection, maintaining all necessary records to ensure that maximum repayments are made. Collection and servicing of repayments under this section shall be pursued using the full extent of the law, including wage garnishment if necessary, and shall be performed by entities approved for such servicing by the Washington student loan guaranty association or its successor agency. The board is responsible to forgive all or parts of such repayments under the criteria established in this section and shall maintain all necessary records of forgiven payments.

(6) Receipts from the payment of principal or interest or any other subsidies to which the board as administrator is entitled, which are paid by or on behalf of participants under this section, shall be deposited with the board and shall be used to cover the costs of granting the scholarships, maintaining necessary records, and making collections under subsection (5) of this section. The board shall maintain accurate records of these costs, and all receipts beyond those necessary to pay such costs shall be used to grant scholarships to eligible students.

(7) Sponsoring communities who financially contribute to the eligible financial expenses of eligible medical students may enter into agreements with the student to require repayment should the student not serve the required service obligation in the community as a primary care physician. The board may develop criteria for the content of such agreements with respect to reasonable provisions and obligations between communities and eligible students.

(8) The board may make exceptions to the conditions for participation and repayment obligations should circumstances beyond the control of individual participants warrant such exceptions. [1991 c 332 § 25.]

28B.115.130 Health professional loan repayment and scholarship program fund. (1) Any funds appropriated by the legislature for the health professional loan repayment and scholarship program or any other public or private funds intended for loan repayments or scholarships under this program shall be placed in the account created by this section.

(2) The health professional loan repayment and scholarship program fund is created in custody of the state treasurer. All receipts from the program shall be deposited into the fund. Only the higher education coordinating board, or its designee, may authorize expenditures from the fund. The fund is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures. [1991 c 332 § 28.]

28B.115.140 Transfer of program administration. After consulting with the higher education coordinating board, the governor may transfer the administration of this program to another agency with an appropriate mission. [1989 1st ex.s. c 9 § 722. Formerly RCW 18.150.070.]

28B.115.900 Effective date—1989 1st ex.s. c 9. See RCW 43.70.910.

28B.115.901 Severability—1989 1st ex.s. c 9. See RCW 43.70.920.

28B.115.902 Application to scope of chapter—Captions not law—1991 c 332. See notes following RCW 18.130.010.

Chapter 28B.120

WASHINGTON FUND FOR EXCELLENCE IN HIGHER EDUCATION PROGRAM

Sections	Findings.
28B.120.005	Washington fund for excellence in higher education program—Incentive grants.
28B.120.010	
28B.120.020	Program administration.
28B.120.030	Receipt of gifts, grants, and endowments.
28B.120.040	Fund for excellence.

28B.120.005 Findings. The legislature finds that encouraging collaboration among the various educational sectors to meet state-wide needs will strengthen the entire educational system, kindergarten through twelfth grade and higher education. The legislature also recognizes that the most effective way to develop innovative and collaborative programs is to encourage institutions to develop them voluntarily, in line with established state goals. Through a system of competitive grants, the legislature shall encourage the development of innovative and collaborative solutions to issues of critical state-wide need, including:

(1) Improving rates of participation and completion at each educational level;

(2) Recognizing needs of special populations of students;

(3) Improving the effectiveness of education by better coordinating communication and understanding between sectors. [1991 c 98 § 1.]

28B.120.010 Washington fund for excellence in higher education program—Incentive grants. The Washington fund for excellence in higher education program is established. The higher education coordinating board shall administer the program. Through this program the board may award on a competitive basis incentive grants to state public institutions of higher education or consortia of institutions to encourage cooperative programs designed to address specific system problems. Grants shall not exceed a two-year period. Each institution or consortia of institutions receiving the award shall contribute some financial support, either by covering part of the costs for the program during its implementation, or by assuming continuing support at the end of the grant period. Strong priority will be given to proposals that involve more than one sector of education, and to proposals that show substantive institutional commitment. Institutions are encouraged to solicit nonstate funds to support these cooperative programs. [1991 c 98 § 2.]

28B.120.020 Program administration. The higher education coordinating board shall have the following powers and duties in administering the program:

(1) To adopt rules necessary to carry out the program;

(2) To establish one or more review committees to assist in the evaluation of proposals for funding. The review committee shall include individuals with significant experience in higher education in areas relevant to one or more of the funding period priorities;

(3) To establish each biennium specific guidelines for submitting grant proposals consistent with the overall goals of the program. During the 1991-93 biennium the guidelines shall be consistent with the following priorities: (a) Minority and diversity initiatives that encourage the participation of minorities in higher education, including students with disabilities, at a rate consistent with their proportion of the population; (b) K-12 teacher preparation models that encourage collaboration between higher education and K-12 to improve the preparedness of teachers, including provisions for higher education faculty involved with teacher preparation to spend time teaching in K-12 schools; and (c) articulation and transfer activities to smooth the transfer of students from K-12 to higher education, or from the community colleges to four-year institutions. After June 30, 1993, and each biennium thereafter, the board shall determine funding priorities for collaborative proposals for the biennium in consultation with the governor, the legislature, the office of the superintendent of public instruction, the *state board for community college education, the **state board for vocational education, higher education institutions, educational associations, and business and community groups consistent with state-wide needs;

(4) To solicit grant proposals and provide information to the institutions of higher education about the program; and

(5) To establish reporting, monitoring, and dissemination requirements for the recipients of the grants. [1991 c 98 § 3.]

Reviser's note: *(1) The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

** (2) Powers, duties, and functions of the state board for vocational education transferred to the work force training and education coordinating board by 1991 c 238 § 8.

28B.120.030 Receipt of gifts, grants, and endowments. The higher education coordinating board may solicit and receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the program and may expend the same or any income therefrom according to the terms of the gifts, grants, or endowments. [1991 c 98 § 4.]

28B.120.040 Fund for excellence. The fund for excellence is hereby established in the custody of the state treasurer. The higher education coordinating board shall deposit in the fund all moneys received under RCW 28B.120.030. Moneys in the fund may be spent only for the purposes of RCW 28B.120.010 and 28B.120.020. Disbursements from the fund shall be on the authorization of the higher education coordinating board. The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements. [1991 c 98 § 5.]

Chapter 28B.125

HEALTH PERSONNEL RESOURCES

Sections

28B.125.005	Intent.
28B.125.010	State-wide health personnel resource plan—Committee.
28B.125.020	Institutional plans—Implementation.
28B.125.900	Application to scope of practice—Captions not law— 1991 c 332.

28B.125.005 Intent. The legislature finds that certain health care professional shortages exist and result in entire communities or specific populations within communities not having access to basic health care services.

The legislature further finds that the state currently does not have a state-wide comprehensive and systematic policy for the purpose of identifying shortages and designing and implementing activities to address shortages.

The legislature declares that the establishment of higher educational programming and other activities necessary to address health professional shortages should be a state policy concern and that a means to accomplish this should be established.

The legislature further declares that the development of state policy on professional shortages should involve close coordination and consultation between state government, institutions of higher education that conduct health care research and train health care professionals, health care service providers, consumers, and others.

The legislature further declares that the health care needs of the people of this state should be the primary factor determining state policymaking designed to address health professional shortages. [1991 c 332 § 4.]

28B.125.010 State-wide health personnel resource plan—Committee. (1) The higher education coordinating board, the *state board for community college education, the superintendent of public instruction, the state department of health, and the state department of social and health services, to be known for the purposes of this section as the committee, shall establish a state-wide health personnel resource plan. The governor shall appoint a lead agency from one of the agencies on the committee.

In preparing the state-wide plan the committee shall consult with the training and education institutions affected by this chapter, health care providers, employers of health care providers, insurers, consumers of health care, and other appropriate entities.

Should a successor agency or agencies be authorized or created by the legislature with planning, coordination, or administrative authority over vocational-technical schools, community colleges, or four-year higher education institutions, the governor shall grant membership on the committee to such agency or agencies and remove the member or members it replaces.

The committee shall appoint subcommittees for the purpose of assisting in the development of the institutional plans required under this chapter. Such subcommittees shall at least include those committee members that have statutory responsibility for planning, coordination, or administration of the training and education institutions for which the institutional plans are being developed. In preparing the institutional plans for four-year institutes of higher education, the subcommittee shall be composed of at least the higher education coordinating board and the state's four-year higher education institutions. The appointment of subcommittees to develop portions of the state-wide plan shall not relinquish the committee's responsibility for assuring overall coordination, integration, and consistency of the state-wide plan.

In establishing and implementing the state-wide health personnel resource plan the committee shall, to the extent possible, utilize existing data and information, personnel, equipment, and facilities and shall minimize travel and take such other steps necessary to reduce the administrative costs associated with the preparation and implementation of the plan.

(2) The state-wide health resource plan shall include at least the following:

(a)(i) Identification of the type, number, and location of the health care professional work force necessary to meet health care needs of the state.

(ii) A description and analysis of the composition and numbers of the potential work force available for meeting health care service needs of the population to be used for recruitment purposes. This should include a description of the data, methodology, and process used to make such determinations.

(b) A centralized inventory of the numbers of student applications to higher education and vocational-technical training and education programs, yearly enrollments, yearly degrees awarded, and numbers on waiting lists for all the state's publicly funded health care training and education programs. The committee shall request similar information for incorporation into the inventory from private higher education and vocational-technical training and education programs.

(c) A description of state-wide and local specialized provider training needs to meet the health care needs of target populations and a plan to meet such needs in a cost-effective and accessible manner.

(d) A description of how innovative, cost-effective technologies such as telecommunications can and will be used to provide higher education, vocational-technical, continued competency, and skill maintenance and enhancement education and training to placebound students who need flexible programs and who are unable to attend institutions for training.

(e) A strategy for assuring higher education and vocational-technical educational and training programming is sensitive to the changing work force such as reentry workers, women, minorities, and the disabled.

(f) A strategy and coordinated state-wide policy developed by the subcommittees authorized in subsection (1) of this section for increasing the number of graduates intending to serve in shortage areas after graduation, including such strategies as the establishment of preferential admissions and designated enrollment slots.

(g) Guidelines and policies developed by the subcommittees authorized in subsection (1) of this section for allowing academic credit for on-the-job experience such as internships, volunteer experience, apprenticeships, and community service programs.

(h) A strategy developed by the subcommittees authorized in subsection (1) of this section for making required internships and residency programs available that are geographically accessible and sufficiently diverse to meet both general and specialized training needs as identified in the plan when such programs are required.

(i) A description of the need for multiskilled health care professionals and an implementation plan to restructure educational and training programming to meet these needs.

(j) An analysis of the types and estimated numbers of health care personnel that will need to be recruited from out-of-state to meet the health professional needs not met by in-state trained personnel.

(k) An analysis of the need for educational articulation within the various health care disciplines and a plan for addressing the need.

(l) An analysis of the training needs of those members of the long-term care profession that are not regulated and that have no formal training requirements. Programs to meet these needs should be developed in a cost-effective and a state-wide accessible manner that provide for the basic training needs of these individuals.

(m) A designation of the professions and geographic locations in which loan repayment and scholarships should be available based upon objective data-based forecasts of health professional shortages. A description of the criteria used to select professions and geographic locations shall be included. Designations of professions and geographic locations may be amended by the department of health when circumstances warrant as provided for in RCW 28B.115.070.

(n) A description of needed changes in regulatory laws governing the credentialing of health professionals.

(o) A description of linguistic and cultural training needs of foreign-trained health care professionals to assure safe and effective practice of their health care profession.

(p) A plan to implement the recommendations of the state-wide nursing plan authorized by RCW 74.39.040.

(q) A description of criteria and standards that institutional plans provided for in this section must address in order to meet the requirements of the state-wide health personnel resource plan, including funding requirements to implement the plans. The committee shall also when practical identify specific outcome measures to measure progress in meeting the requirements of this plan. The criteria and standards shall be established in a manner as to provide flexibility to the institutions in meeting state-wide plan requirements. The committee shall establish required submission dates for the institutional plans that permit inclusion of funding requests into the institutions budget requests to the state.

(r) A description of how the higher education coordinating board, *state board for community college education, superintendent of public instruction, department of health, and department of social and health services coordinated in the creation and implementation of the state plan including the areas of responsibility each agency shall assume. The plan should also include a description of the steps taken to assure participation by the groups that are to be consulted with.

(s) A description of the estimated fiscal requirements for implementation of the state-wide health resource plan that include a description of cost saving activities that reduce potential costs by avoiding administrative duplication, coordinating programming activities, and other such actions to control costs.

(3) The committee may call upon other agencies of the state to provide available information to assist the committee in meeting the responsibilities under this chapter. This information shall be supplied as promptly as circumstances permit.

(4) State agencies involved in the development and implementation of the plan shall to the extent possible utilize existing personnel and financial resources in the development and implementation of the state-wide health personnel resource plan.

(5) The state-wide health personnel resource plan shall be submitted to the governor by July 1, 1992, and updated by July 1 of each even-numbered year. The governor, no later than December 1 of that year, shall approve, approve with modifications, or disapprove the state-wide health resource plan.

(6) The approved state-wide health resource plan shall be submitted to the senate and house of representatives committees on health care, higher education, and ways and means or appropriations by December 1 of each even-numbered year.

(7) Implementation of the state-wide plan shall begin by July 1, 1993.

(8) Notwithstanding subsections (5) and (7) of this section, the committee shall prepare and submit to the higher education coordinating board by June 1, 1992, the analysis necessary for the initial implementation of the health professional loan repayment and scholarship program created in chapter 28B.115 RCW.

(9) Each publicly funded two-year and four-year institute of higher education authorized under Title 28B RCW and vocational-technical institution authorized under

Title 28A RCW that offers health training and education programs shall biennially prepare and submit an institutional plan to the committee. The institutional plan shall identify specific programming and activities of the institution that meet the requirements of the state-wide health professional resource plan.

The committee shall review and assess whether the institutional plans meet the requirements of the state-wide health personnel resource plan and shall prepare a report with its determination. The report shall become part of the institutional plan and shall be submitted to the governor and the legislature.

The institutional plan shall be included with the institution's biennial budget submission. The institution's budget shall identify proposed spending to meet the requirements of the institutional plan. Each vocational-technical institution, college, or university shall be responsible for implementing its institutional plan. [1991 c 332 § 5.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

28B.125.020 Institutional plans—Implementation.

The institutional plans provided for in this chapter are to be implemented by each institution consistent with the biennial appropriation of the legislature. Whenever feasible, each institution shall make a good faith effort to implement the plan utilizing existing financial resources.

If there is a conflict between portions of the institutional plans proposing changes in curriculum and the accreditation standards of health training and education programs, the institution may deviate from the plan. However, the institution shall provide to the committee established in this chapter confirmation from the accrediting body indicating that the proposed changes will jeopardize accreditation and that the institution has made a good faith effort to obtain approval for such changes. If the institution is unable to obtain approval from the accrediting agency, it shall present to the committee an alternative proposal with changes that meet the objectives of the state-wide and institutional plans and has the approval of the accrediting agency.

Implementation of the institutional plans with respect to changes in admission requirements or curriculum are subject to the approval of the board of regents or the board of trustees as specified in Title 28B RCW. If the board believes that implementation of portions of the institutional plan may not be consistent with standards and practices of the institution, the board shall conduct a public hearing in accordance with chapter 34.05 RCW. At such time, the committee shall present an explanation of the need for such changes. In addition, the institution shall present alternative recommended changes to the institutional plan that meet the requirements of this chapter for the state-wide and institutional plans. After deliberation the board shall prepare a summary of the proceedings together with recommendations for modifications of the institutional plan. [1991 sp.s. c 27 § 1.]

28B.125.900 Application to scope of practice—Captions not law—1991 c 332. See notes following RCW 18.130.010.

Chapter 28B.900
CONSTRUCTION

Sections

28B.900.010	Repeals and savings—1969 ex.s. c 223.
28B.900.020	Moneys transferred.
28B.900.030	Continuation of existing law.
28B.900.040	Provisions to be construed in <i>pari materia</i> .
28B.900.050	Title, chapter, section headings not part of law.
28B.900.060	Invalidity of part of title not to affect remainder.
28B.900.070	This code defined.
28B.900.080	Effective date—1969 ex.s. c 223.

28B.900.010 Repeals and savings—1969 ex.s. c 223. See 1969 ex.s. c 223 § 28B.98.010. Formerly RCW 28B.98.010.

28B.900.020 Moneys transferred. All moneys in the Southwestern Washington State College bond retirement fund and the Southwestern Washington State College capital projects account are hereby transferred to The Evergreen State College bond retirement fund and The Evergreen State College capital projects account respectively, which latter fund and account are created in RCW 28B.35.370. [1969 ex.s. c 223 § 28B.98.020. Formerly RCW 28B.98.020.]

28B.900.030 Continuation of existing law. The provisions of this title, Title 28B RCW, insofar as they are substantially the same as statutory provisions repealed by this chapter, and relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments. Nothing in this 1969 code revision of Title 28 RCW shall be construed as authorizing any new bond issues or new or additional appropriations of moneys but the bond issue authorizations herein contained shall be construed only as continuations of bond issues authorized by prior laws herein repealed and reenacted, and the appropriations of moneys herein contained are continued herein for historical purposes only and this 1969 act shall not be construed as a reappropriation thereof and no appropriation contained herein shall be deemed to be extended or revived hereby and such appropriation shall lapse or shall have lapsed in accordance with the original enactment: PROVIDED, That this 1969 act shall not operate to terminate, extend, or otherwise affect any appropriation for the biennium commencing July 1, 1967 and ending June 30, 1969. [1969 ex.s. c 223 § 28B.98.030. Formerly RCW 28B.98.030.]

28B.900.040 Provisions to be construed in *pari materia*. The provisions of this title, Title 28B RCW, shall be construed in *pari materia* even though as a matter of prior legislative history they were not originally enacted in the same statute. The provisions of this title shall also be construed in *pari materia* with the provisions of Title 28A RCW, and with other laws relating to education. This section shall not operate retroactively. [1969 ex.s. c 223 § 28B.98.040. Formerly RCW 28B.98.040.]

28B.900.050 Title, chapter, section headings not part of law. Title headings, chapter headings, and section or subsection headings, as used in this title, Title 28B RCW,

do not constitute any part of the law. [1969 ex.s. c 223 § 28B.98.050. Formerly RCW 28B.98.050.]

28B.900.060 Invalidity of part of title not to affect remainder. If any provision of this title, Title 28B RCW, or its application to any person or circumstance is held invalid, the remainder of the title, or the application of the provision to other persons or circumstances is not affected. [1969 ex.s. c 223 § 28B.98.060. Formerly RCW 28B.98.060.]

28B.900.070 This code defined. As used in this title, Title 28B RCW, "this code" means Titles 28A and 28B of this 1969 act. [1969 ex.s. c 223 § 28B.98.070. Formerly RCW 28B.98.070.]

28B.900.080 Effective date—1969 ex.s. c 223. This act shall take effect on July 1, 1970. [1969 ex.s. c 223 § 28B.98.080. Formerly RCW 28B.98.080.]

Title 28C

VOCATIONAL EDUCATION

Chapters

- 28C.04 Vocational education.**
- 28C.10 Private vocational schools.**
- 28C.18 Work force training and education.**
- 28C.20 Washington state council on vocational education.**

Displaced homemaker act: Chapter 28B.04 RCW.

Public bodies may retain collection agencies to collect public debts: RCW 19.16.500.

Vocational agriculture education—Service areas—Programs in local school districts: RCW 28A.300.090.

Chapter 28C.04

VOCATIONAL EDUCATION

Sections

- 28C.04.400 Job skills program—Legislative declaration and policy.
- 28C.04.410 Job skills program—Definitions.
- 28C.04.420 Job skills program—Grants to educational institutions—Requirements.
- 28C.04.430 Job skills program—Notification of approval of grant to employment security department—Contents.
- 28C.04.440 Job skills program—Interagency agreement by commission and the department of trade and economic development and the employment security department.
- 28C.04.450 Job skills program—Duties of employment security department.
- 28C.04.460 Job skills program—Duties of department of trade and economic development.
- 28C.04.480 Job skills program—Participant deemed to be in training for purposes of RCW 50.20.043.
- 28C.04.520 Washington award for vocational excellence—Intent.
- 28C.04.525 Washington award for vocational excellence—Establishment—Purposes.
- 28C.04.530 Washington award for vocational excellence—Commission's duties.
- 28C.04.535 Washington award for vocational excellence—Granted annually—Notice—Presentation.
- 28C.04.540 Washington award for vocational excellence—Commission may accept contributions.
- 28C.04.545 Washington award for vocational excellence—Fee waivers by vocational-technical institutes.
- 28C.04.550 Washington award for vocational excellence—When effective.
- 28C.04.600 AIDS information—Vocational schools.

AIDS information: Chapter 70.24 RCW.

Assistance to community revitalization team: RCW 43.165.100.

Vocational agriculture education—Service areas—Programs in local school districts: RCW 28A.300.090.

28C.04.400 Job skills program—Legislative declaration and policy. The legislature declares that it is an important function of government to increase opportunities for gainful employment, to assist in promoting a productive and expanding economy, and to encourage the flow of business and industry support to educational institutions. Therefore, the legislature finds that it is in the public interest of the state to encourage and facilitate the formation of

cooperative relationships between business and industry and educational institutions which provide for the development and significant expansion of programs of skills training and education consistent with employment needs and to make interested individuals aware of the employment opportunities presented thereby. It is the policy of the state of Washington to ensure that programs of skill training are available on a regional basis and are utilized by a variety of businesses and industries. [1983 1st ex.s. c 21 § 1.]

Severability—1983 1st ex.s. c 21: "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." [1983 1st ex.s. c 21 § 12.]

28C.04.410 Job skills program—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout *RCW 28C.04.040 and 28C.04.420 through 28C.04.480.

(1) "Applicant" means an educational institution which has made application for a job skills grant under RCW 28C.04.420 through 28C.04.480.

(2) "Business and industry" means a private corporation, institution, firm, person, group, or association concerned with commerce, trades, manufacturing, or the provision of services within the state, or a public or nonprofit hospital licensed by the department of social and health services.

(3) "Educational institution" means a public secondary or postsecondary institution or an independent institution within the state authorized by law to provide a program of skills training or education beyond the secondary school level. Any educational institution receiving a job skills grant under RCW 28C.04.420 through 28C.04.480 shall be free of sectarian control or influence as set forth in Article IX, section 4 of the state Constitution.

(4) "Equipment" means tangible personal property which will further the objectives of the supported program and for which a definite value and evidence in support of the value have been provided by the donor.

(5) "Financial support" means any thing of value which is contributed by business and industry to an educational institution which is reasonably calculated to support directly the development and expansion of a particular program under RCW 28C.04.420 through 28C.04.480 and represents an addition to any financial support previously or customarily provided to such educational institutions by the donor. "Financial support" includes, but is not limited to, funds, equipment, facilities, faculty, and scholarships for matriculating students and trainees.

(6) "Job skills grant" means funding that is provided to an educational institution by the commission for the development or significant expansion of a program under RCW 28C.04.420 through 28C.04.480.

(7) "Job skills program" means a program of skills training or education separate from and in addition to existing vocational education programs and which:

- (a) Provides short-term training which has been designated for specific industries;
- (b) Provides training for prospective employees before a new plant opens or when existing industry expands;
- (c) Includes training and retraining for workers already employed by an existing industry or business where necessary to avoid dislocation or where upgrading of existing employees would create new vacancies for unemployed persons;
- (d) Serves areas with high concentrations of economically disadvantaged persons and high unemployment;
- (e) Serves areas with new and growing industries;
- (f) Serves areas where there is a shortage of skilled labor to meet job demands; or
- (g) Promotes the location of new industry in areas affected by economic dislocation.

(8) "Technical assistance" means professional and any other assistance provided by business and industry to an educational institution, which is reasonably calculated to support directly the development and expansion of a particular program and which represents an addition to any technical assistance previously or customarily provided to the educational institutions by the donor.

(9) **"Commission"** or "commission for vocational education" shall mean the **commission** for vocational education or any successor agency or organization. [1983 1st ex.s. c 21 § 2.]

Reviser's note: *(1) RCW 28C.04.040 was repealed by 1983 c 197 § 43, effective June 30, 1987.

****(2)** The commission on vocational education and its powers and duties, pursuant to the Sunset Act, chapter 43.131 RCW, were terminated June 30, 1986, and repealed June 30, 1987. See 1983 c 197 §§ 17 and 43.

Severability—1983 1st ex.s. c 21: See note following RCW 28C.04.400.

28C.04.420 Job skills program—Grants to educational institutions—Requirements. The commission may, subject to appropriation from the legislature or from funds made available from any other public or private source and pursuant to rules adopted by the commission, provide job skills grants to educational institutions. The job skills grants shall be used exclusively for programs which are consistent with the job skills program. A job skills grant may be awarded only after:

(1) Receipt of an application from an educational institution which contains a proposal for a program of skills training and education, including a description of the program, the type of skills training or education to be provided, a statement of the total cost of the program and a breakdown of the costs associated with equipment, personnel, facilities, and materials, a statement of the employment needs for the program and evidence in support thereof, demonstrates that the program does not unnecessarily duplicate existing programs in the area and is provided at a reasonable cost, a statement of the technical assistance and financial support for the program received or to be received from business and industry, and such other information as the commission requests; and

(2) The commission, based on the application submitted by the educational institution and such additional investigation as the staff of the commission shall make, finds that:

- (a) The program is within the scope of the job skills program under this chapter and may reasonably be expected to succeed and thereby increase employment within the state;
- (b) Provision has been made to use any available alternative funding from local, state, and federal sources;
- (c) The job skills grant will only be used to cover the costs associated with the program;
- (d) The program will not unnecessarily duplicate existing programs and could not be provided by another educational institution more effectively or efficiently;
- (e) The program involves an area of skills training and education for which there is a demonstrable need;
- (f) The applicant has made provisions for the use of existing federal and state resources for student financial assistance;
- (g) The job skills grant is essential to the success of the program as the resources of the applicant are inadequate to attract the technical assistance and financial support necessary for the program from business and industry;
- (h) The commitment of financial support from business and industry shall be equal to or greater than the amount of the requested job skills grant;

(i) Binding commitments have been made to the commission by the applicant for adequate reporting of information and data regarding the program to the commission, particularly information concerning the recruitment and employment of trainees and students, and including a requirement for an annual or other periodic audit of the books of the applicant directly related to the program, and for such control on the part of the commission as it considers prudent over the management of the program, so as to protect the use of public funds, including, in the discretion of the commission and without limitation, right of access to financial and other records of the applicant directly related to the programs;

(j) Provision has been made by the applicant to work, in cooperation with the employment security department, to identify and screen potential trainees and that provision has been made by the applicant of persons who are victims of economic dislocation and persons from minority and economically disadvantaged groups to participate in the program; and

(k) Binding commitments have been made to the commission by the applicant for compliance with the monitoring and evaluation rules of the commission. [1983 1st ex.s. c 21 § 4.]

Severability—1983 1st ex.s. c 21: See note following RCW 28C.04.400.

28C.04.430 Job skills program—Notification of approval of grant to employment security department—Contents. Upon approval of a job skills grant application by the commission, the commission shall immediately provide notification of its decision to the employment security department. The notification shall include the following information regarding the supported program: The trade, occupation, or profession with which the program is concerned; a description of the curriculum, the requirements for participation, and the procedures for making application;

the duration of the program; a description of support services available to participants in the program; and any other information relevant to encouraging and facilitating the participation in the program of those in economic need. [1983 1st ex.s. c 21 § 5.]

Severability—1983 1st ex.s. c 21: See note following RCW 28C.04.400.

28C.04.440 Job skills program—Interagency agreement by commission and the department of trade and economic development and the employment security department. The department of trade and economic development or its successor and the employment security department shall each enter into an interagency agreement with the *commission on vocational education to establish cooperative working arrangements for the purposes of RCW 28C.04.410 through 28C.04.480. [1985 c 466 § 40; 1983 1st ex.s. c 21 § 6.]

***Reviser's note:** The commission on vocational education and its powers and duties, pursuant to the Sunset Act, chapter 43.131 RCW, were terminated June 30, 1986, and repealed June 30, 1987. See 1983 c 197 §§ 17 and 43.

Effective date—Severability—1985 c 466: See notes following RCW 43.31.005.

Severability—1983 1st ex.s. c 21: See note following RCW 28C.04.400.

28C.04.450 Job skills program—Duties of employment security department. The employment security department shall, for the purposes of RCW 28C.04.410 through 28C.04.480:

- (1) Work cooperatively with educational institutions providing job skills training programs to identify and screen potential trainees and students;
- (2) Perform labor market analyses designed to assure the availability of suitable trainees and students; and
- (3) Identify areas with high concentrations of economically disadvantaged persons and high unemployment. [1983 1st ex.s. c 21 § 7.]

Severability—1983 1st ex.s. c 21: See note following RCW 28C.04.400.

28C.04.460 Job skills program—Duties of department of trade and economic development. The department of trade and economic development or its successor shall for the purposes of RCW 28C.04.410 through 28C.04.480:

- (1) Work cooperatively with the *commission on vocational education to market the job skills program to business and economic development agencies and other firms;
- (2) Recruit industries from outside the state to participate in the job skills training program; and
- (3) Refer business and industry interested in developing a job skills training program to the *commission on vocational education. [1985 c 466 § 41; 1983 1st ex.s. c 21 § 8.]

***Reviser's note:** The commission on vocational education and its powers and duties, pursuant to the Sunset Act, chapter 43.131 RCW, were terminated June 30, 1986, and repealed June 30, 1987. See 1983 c 197 §§ 17 and 43.

Effective date—Severability—1985 c 466: See notes following RCW 43.31.005.

Severability—1983 1st ex.s. c 21: See note following RCW 28C.04.400.

28C.04.480 Job skills program—Participant deemed to be in training for purposes of RCW 50.20.043. A person making satisfactory progress in a program under this section and RCW 28C.04.410 through *28C.04.470 and who in the determination of the commissioner has no reasonable expectation of securing work without training shall be deemed to be in training with the approval of the commissioner of employment security for the purposes of RCW 50.20.043. [1983 1st ex.s. c 21 § 10.]

***Reviser's note:** RCW 28C.04.470 was repealed by 1987 c 505 § 88.

Severability—1983 1st ex.s. c 21: See note following RCW 28C.04.400.

28C.04.520 Washington award for vocational excellence—Intent. Every year community colleges, vocational-technical institutes, and high schools graduate students who have distinguished themselves by their outstanding performance in their occupational training programs. The legislature intends to recognize and honor these students by establishing a Washington award for vocational excellence. [1984 c 267 § 1.]

28C.04.525 Washington award for vocational excellence—Establishment—Purposes. The Washington award for vocational excellence program is established. The purposes of this annual program are to:

- (1) Maximize public awareness of the achievements, leadership ability, and community contributions of the state's public vocational-technical students;
- (2) Emphasize the dignity of work in our society;
- (3) Instill respect for those who become skilled in crafts and technology;
- (4) Recognize the value of vocational education and its contribution to the economy of this state;
- (5) Foster business, labor, and community involvement in vocational-technical training programs and in this award program; and
- (6) Recognize the outstanding achievements of up to three vocational or technical students, at least two of whom should be graduating high school students, in each legislative district. Students who have completed at least one year of a vocational-technical program in a community college or public vocational-technical institute may also be recognized. [1987 c 231 § 3; 1984 c 267 § 2.]

Effective date—1987 c 231 § 3: "Section 3 of this act shall take effect January 1, 1988." [1987 c 231 § 6.]

28C.04.530 Washington award for vocational excellence—Commission's duties. (1) The *commission for vocational education or a successor agency shall have the responsibility for the development and administration of the Washington award for vocational excellence program. The *commission or successor agency shall develop the program in consultation with other state agencies and private organizations having interest and responsibility in vocational education, including but not limited to: The **state board for community college education, the office of the superintendent of public instruction, a voluntary professional

association of vocational educators, and representatives from business, labor, and industry.

(2) The *commission or successor agency shall establish a planning committee to develop the criteria for screening and selecting the students who will receive the award. This criteria shall include but not be limited to the following characteristics: Proficiency in their chosen fields, attendance, attitude, character, leadership, and civic contributions. [1987 c 231 § 2; 1984 c 267 § 3.]

Reviser's note: *(1) The commission on vocational education and its powers and duties, pursuant to the Sunset Act, chapter 43.131 RCW, were terminated June 30, 1986, and repealed June 30, 1987. See 1983 c 197 §§ 17 and 43.

** (2) The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

28C.04.535 Washington award for vocational excellence—Granted annually—Notice—Presentation. The Washington award for vocational excellence shall be granted annually. The *commission shall notify the students receiving the award, their vocational instructors, local chambers of commerce, the legislators of their respective districts, and the governor, after final selections have been made. The *commission, in conjunction with the governor's office, shall prepare appropriate certificates to be presented to the selected students. Awards shall be presented in public ceremonies at times and places determined by the *commission in cooperation with the office of the governor. [1984 c 267 § 4.]

***Reviser's note:** The commission on vocational education and its powers and duties, pursuant to the Sunset Act, chapter 43.131 RCW, were terminated June 30, 1986, and repealed June 30, 1987. See 1983 c 197 §§ 17 and 43.

28C.04.540 Washington award for vocational excellence—Commission may accept contributions. The *commission may accept any and all donations, grants, bequests, and devices, conditional or otherwise, or money, property, service, or other things of value which may be received from any federal, state, or local agency, any institution, person, firm, or corporation, public and private, to be held, used, or applied for the purposes of the Washington award for vocational excellence program. The *commission shall encourage maximum participation from business, labor, and community groups. The *commission shall also coordinate, where feasible, the contribution activities of the various participants.

The *commission shall not make expenditures from funds collected under this section until February 15, 1985. [1984 c 267 § 5.]

***Reviser's note:** The commission on vocational education and its powers and duties, pursuant to the Sunset Act, chapter 43.131 RCW, were terminated June 30, 1986, and repealed June 30, 1987. See 1983 c 197 §§ 17 and 43.

28C.04.545 Washington award for vocational excellence—Fee waivers by vocational-technical institutes. The respective governing boards of the public vocational-technical institutes shall provide fee waivers for a maximum of two years for recipients of the Washington award for vocational excellence established under RCW 28C.04.520 through 28C.04.540. To qualify for the waiver, recipients shall enter the public vocational-technical institute within

three years of receiving the award. An above average rating at the vocational-technical institute in the first year shall be required to qualify for the second-year waiver. [1987 c 231 § 4; 1984 c 267 § 7.]

28C.04.550 Washington award for vocational excellence—When effective. The Washington award for vocational excellence shall be effective commencing with the 1984-85 academic year. [1987 c 505 § 16; 1984 c 267 § 8.]

28C.04.600 AIDS information—Vocational schools. Each publicly operated vocational school shall make information available to all newly matriculated students on methods of transmission of the human immunodeficiency virus and prevention of acquired immunodeficiency syndrome. The curricula and materials shall be reviewed for medical accuracy by the office on AIDS in coordination with the appropriate regional AIDS service network. [1988 c 206 § 503.]

Severability—1988 c 206: See RCW 70.24.900.

Chapter 28C.10

PRIVATE VOCATIONAL SCHOOLS

Sections

- 28C.10.010 Intent.
- 28C.10.020 Definitions.
- 28C.10.030 Application of chapter.
- 28C.10.040 Agency's duties—Rules—Investigations—Interagency agreements about nondegree programs.
- 28C.10.050 Minimum standards—Denial, revocation, or suspension of licenses.
- 28C.10.060 Licenses—Requirements—Renewal.
- 28C.10.070 Fees.
- 28C.10.082 Tuition recovery fund—Created—State treasurer custodian.
- 28C.10.084 Tuition recovery fund—Deposits required—Use—Claims—Notice—Disbursements.
- 28C.10.090 Actions prohibited without license.
- 28C.10.100 Suspension or modification of requirements of chapter.
- 28C.10.110 Unfair business practices.
- 28C.10.120 Complaints—Investigations—Hearings—Remedies.
- 28C.10.130 Violations—Civil penalties.
- 28C.10.140 Violations—Criminal sanctions.
- 28C.10.150 Actions resulting in jurisdiction of courts.
- 28C.10.160 Educational records—Permanent file—Protection.
- 28C.10.170 Contracts voidable—When.
- 28C.10.180 Enforceability of debts—Authority to offer degree required.
- 28C.10.190 Actions to enforce chapter—Who may bring—Relief.
- 28C.10.200 Injunctive relief—Agency may seek.
- 28C.10.210 Violation of chapter unfair or deceptive practice under RCW 19.86.020.
- 28C.10.220 Remedies and penalties in chapter nonexclusive and cumulative.
- 28C.10.900 Severability—1986 c 299.
- 28C.10.902 Effective date—1986 c 299.
- 28C.10.910 Schools registered under prior laws.

28C.10.010 Intent. It is the intent of this chapter to protect against practices by private vocational schools which are false, deceptive, misleading, or unfair, and to help ensure adequate educational quality at private vocational schools. [1986 c 299 § 1.]

28C.10.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agency" means the work force training and education coordinating board or its successor.

(2) "Agent" means a person owning an interest in, employed by, or representing for remuneration a private vocational school within or without this state, who enrolls or personally attempts to secure the enrollment in a private vocational school of a resident of this state, offers to award educational credentials for remuneration on behalf of a private vocational school, or holds himself or herself out to residents of this state as representing a private vocational school for any of these purposes.

(3) "Degree" means any designation, appellation, letters, or words including but not limited to "associate," "bachelor," "master," "doctor," or "fellow" which signify or purport to signify satisfactory completion of an academic program of study beyond the secondary school level.

(4) "Education" includes but is not limited to, any class, course, or program of training, instruction, or study.

(5) "Educational credentials" means degrees, diplomas, certificates, transcripts, reports, documents, or letters of designation, marks, appellations, series of letters, numbers, or words which signify or appear to signify enrollment, attendance, progress, or satisfactory completion of the requirements or prerequisites for any educational program.

(6) "Entity" includes, but is not limited to, a person, company, firm, society, association, partnership, corporation, or trust.

(7) "Private vocational school" means any location where [there is] an entity offering postsecondary education in any form or manner for the purpose of instructing, training, or preparing persons for any vocation or profession.

(8) "To grant" includes to award, issue, sell, confer, bestow, or give.

(9) "To offer" includes, in addition to its usual meanings, to advertise or publicize. "To offer" also means to solicit or encourage any person, directly or indirectly, to perform the act described.

(10) "To operate" means to establish, keep, or maintain any facility or location where, from, or through which education is offered or educational credentials are offered or granted to residents of this state, and includes contracting for the performance of any such act. [1991 c 238 § 81; 1990 c 188 § 5; 1986 c 299 § 2.]

Effective dates—Severability—1991 c 238: See RCW 28B.50.917 and 28B.50.918.

Severability—1990 c 188: "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." [1990 c 188 § 14.]

28C.10.030 Application of chapter. This chapter does not apply to:

(1) Bona fide trade, business, professional, or fraternal organizations sponsoring educational programs primarily for that organization's membership or offered by that organization on a no-fee basis;

(2) Entities offering education that is exclusively avocational or recreational;

(3) Education not requiring payment of money or other consideration if this education is not advertised or promoted as leading toward educational credentials;

(4) Entities that are established, operated, and governed by this state or its political subdivisions under Title 28A, 28B, or 28C RCW;

(5) Degree-granting programs in compliance with the rules of the higher education coordinating board;

(6) Any other entity to the extent that it has been exempted from some or all of the provisions of this chapter under RCW 28C.10.100;

(7) Entities not otherwise exempt that are of a religious character, but only as to those educational programs exclusively devoted to religious or theological objectives and represented accurately in institutional catalogs or other official publications;

(8) Entities offering only courses certified by the federal aviation administration;

(9) Barber and cosmetology schools licensed under chapter 18.16 RCW;

(10) Entities which only offer courses approved to meet the continuing education requirements for licensure under chapters 18.04, 18.78, 18.88, or 48.17 RCW; and

(11) Entities not otherwise exempt offering only workshops or seminars lasting no longer than three calendar days. [1990 c 188 § 6; 1986 c 299 § 3.]

Severability—1990 c 188: See note following RCW 28C.10.020.

28C.10.040 Agency's duties—Rules—Investigations—Interagency agreements about nondegree programs. The agency:

(1) Shall maintain a list of private vocational schools licensed under this chapter;

(2) Shall adopt rules in accordance with chapter 34.05 RCW to carry out this chapter;

(3) May investigate any entity the agency reasonably believes to be subject to the jurisdiction of this chapter. In connection with the investigation, the agency may administer oaths and affirmations, issue subpoenas and compel attendance, take evidence, and require the production of any books, papers, correspondence, memorandums, or other records which the agency deems relevant or material to the investigation. The agency, including its staff and any other authorized persons, may conduct site inspections and examine records of all schools subject to this chapter;

(4) Shall develop an interagency agreement with the higher education coordinating board to regulate degree-granting private vocational schools with respect to nondegree programs. [1986 c 299 § 4.]

28C.10.050 Minimum standards—Denial, revocation, or suspension of licenses. (1) The agency shall adopt by rule minimum standards for private vocational schools. The minimum standards shall include, but not be limited to, requirements for each school to:

(a) Disclose to the agency information about its ownership and financial position and to demonstrate that it has sufficient financial resources to fulfill its commitments to students. Financial disclosures provided to the agency shall not be subject to public disclosure under chapter 42.17 RCW;

(b) Follow a uniform state-wide cancellation and refund policy as specified by the agency;

(c) Disclose through use of a school catalog, brochure, or other written material, necessary information to students so that students may make informed enrollment decisions. The agency shall specify what information is required;

(d) Use an enrollment contract or agreement that includes: (i) The cancellation and refund policy, (ii) a brief statement that the school is licensed under this chapter and that inquiries may be made to the agency, and (iii) other necessary information as determined by the agency;

(e) Describe accurately and completely in writing to students before their enrollment prerequisites and requirements for (i) completing successfully the programs of study in which they are interested and (ii) qualifying for the fields of employment for which their education is designed;

(f) Comply with the requirements of RCW 28C.10.084;

(g) Assess the basic skills and relevant aptitudes of each potential student to determine that a potential student has the basic skills and relevant aptitudes necessary to complete and benefit from the program in which the student plans to enroll. Guidelines for such assessments shall be developed by the agency, in consultation with the schools. The method of assessment shall be reported to the agency. Assessment records shall be maintained in the student's file;

(h) Discuss with each potential student the potential student's obligations in signing any enrollment contract and/or incurring any debt for educational purposes. The discussion shall include the inadvisability of acquiring an excessive educational debt burden that will be difficult to repay given employment opportunities and average starting salaries in the potential student's chosen occupation.

(2) Any enrollment contract shall have an attachment in a format provided by the agency. The attachment shall be signed by both the school and the student. The attachment shall stipulate that the school has complied with subsection (1)(h) of this section and that the student understands and accepts his or her responsibilities in signing any enrollment contract or debt application. The attachment shall also stipulate that the enrollment contract shall not be binding for at least five days, excluding Sundays and holidays, following signature of the enrollment contract by both parties.

(3) The agency shall deny, revoke, or suspend the license of any school that does not meet or maintain the minimum standards. [1990 c 188 § 7; 1987 c 459 § 3; 1986 c 299 § 5.]

Severability—1990 c 188: See note following RCW 28C.10.020.

28C.10.060 Licenses—Requirements—Renewal.

Any entity desiring to operate a private vocational school shall apply for a license to the agency on a form provided by the agency. The agency shall issue a license if the school:

(1) Files a completed application with information satisfactory to the agency. Misrepresentation by an applicant shall be grounds for the agency, at its discretion, to deny or revoke a license.

(2) Complies with the requirements for the tuition recovery fund under RCW 28C.10.084.

(3) Pays the required fees.

(4) Meets the minimum standards adopted by the agency under RCW 28C.10.050.

Licenses shall be valid for one year from the date of issue unless revoked or suspended. If a school fails to file

a completed renewal application at least thirty days before the expiration date of its current license the school shall be subject to payment of a late filing fee fixed by the agency. [1987 c 459 § 4; 1986 c 299 § 6.]

28C.10.070 Fees. The agency shall establish fees by rule at a level necessary to approximately recover the staffing costs incurred in administering this chapter. All fees collected under this section shall be deposited in the state general fund. [1986 c 299 § 7.]

28C.10.082 Tuition recovery fund—Created—State treasurer custodian. The tuition recovery fund is hereby established in the custody of the state treasurer. The agency shall deposit in the fund all moneys received under RCW 28C.10.084. Moneys in the fund may be spent only for the purposes under RCW 28C.10.084. Disbursements from the fund shall be on authorization of the agency. The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements. [1991 sp.s. c 13 § 85; 1987 c 459 § 2.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

28C.10.084 Tuition recovery fund—Deposits required—Use—Claims—Notice—Disbursements. (1) The agency shall establish, maintain, and administer a tuition recovery fund. All funds collected for the tuition recovery fund are payable to the state for the benefit and protection of any student or enrollee of a private vocational school licensed under this chapter, or, in the case of a minor, his or her parents or guardian, for purposes including but not limited to the settlement of claims procedures under subsection (9) of this section and RCW 28C.10.120. The fund shall be liable for settlement of claims and costs of administration but shall not be liable to pay out or recover penalties assessed under RCW 28C.10.130 or 28C.10.140. No liability accrues to the state of Washington from claims made against the fund.

(2) To be and remain licensed under this chapter each entity shall, in addition to other requirements under this chapter, make cash deposits into a tuition recovery fund as a means to assure payment of claims brought under this chapter. The fund shall be initially capitalized at two hundred thousand dollars and shall achieve an operating balance of at least one million dollars within five years after May 18, 1987, as required under subsection (5) of this section.

(3) The amount of liability that can be satisfied by this fund on behalf of each individual entity licensed under this chapter shall be established by the agency, based on an incremental scale that recognizes the average amount of unearned prepaid tuition in possession of the entity. However, the minimum amount of liability for any entity shall not be less than five thousand dollars and the maximum amount shall not exceed two hundred thousand dollars. Such limitation on each entity's liability remains unchanged by single or cumulative disbursements made on behalf of the entity. The upper limit of liability is reestablished following the settlement of any claim.

(4) Within sixty days after any entity deposits its initial contribution into the fund, the agency shall release whatever surety such entity had previously filed. Thereupon, the tuition recovery fund shall be liable for a period of one year following the date such surety is released with respect to prior claims against the surety. However, the liability of the fund is limited to the amount of and subject to the defenses of that released surety as though it had remained on file with the agency. The fund's liability with respect to each entity that makes an initial deposit into the fund commences on that date and ceases one year from the date it is no longer licensed under this chapter.

(5) The agency shall adopt by rule a matrix for calculating the deposits into the fund required of each entity. Proration shall be determined by factoring the entity's share of liability in proportion to the aggregated liability of all participants under the fund by grouping such prorations under the incremental scale created in subsection (3) of this section. Expressed as a percentage of the total liability, that figure determines the amount to be contributed when factored into a fund containing one million dollars. The total amount of its prorated share, minus the amount paid for initial capitalization, shall be payable in ten equal increments over a five-year period, commencing with the sixth month after May 18, 1987. Additionally, the agency shall require deposits for initial capitalization, under which the amount each entity deposits is proportionate to its share of two hundred thousand dollars, employing the matrix developed under this subsection. The amount thus established shall be deposited by each licensee of record, within thirty days after May 18, 1987, and a like amount shall be deposited by each subsequent applicant for licensing before the issuance of such license.

(6) No vested right or interests in deposited funds is created or implied for the depositor, either at any time during the operation of the fund or at any such future time that the fund may be dissolved. All funds deposited are payable to the state for the purposes described under this section. The agency shall maintain the fund, collect deposits when due by serving appropriate notices to affected entities, and make disbursements to settle claims. When the deposits total five million dollars and the history of disbursements so warrants, the agency may at its own option reduce the schedule of deposits whether as to time, amount, or both. When such level is achieved, the agency may also entertain proposals from among the licensees with regard to disbursing surplus funds for such purposes as vocational scholarships.

(7) The agency shall make determinations based on annual financial data supplied by the entity whether the increment assigned to that entity on the incremental scale established under subsection (5) of this section has changed. If an increase or decrease has occurred, a corresponding change in its incremental position and contribution schedule shall be made before the date of its next scheduled deposit into the fund.

(8) If fifty-one percent or more of the ownership interest in an entity is conveyed through sale or other means into different ownership, the contribution schedule of the prior owner is canceled. All contributions made to the date of transfer accrue to the fund. The new owner commences contributions under provisions applying to a new applicant.

(9) To settle complaints adjudicated under RCW 28C.10.120 and claims resulting when a private vocational school ceases to provide educational services, the agency may make disbursements from the fund. In addition to the processes described under RCW 28C.10.120 for handling complaints, the following additional procedures are established to deal with school closures:

(a) The agency shall attempt to notify all potential claimants. The absence of records and other circumstances may make it impossible or unreasonable for the agency to ascertain the names and whereabouts of each potential claimant but the agency shall make reasonable inquiries to secure that information from all likely sources. The agency shall then proceed to settle the claims on the basis of information in its possession. The agency is not responsible or liable for claims or for handling claims that may subsequently appear or be discovered.

(b) Thirty days after identified potential claimants have been notified, if a claimant refuses or neglects to file a claim verification as requested in such notice, the agency shall be relieved of further duty or action on behalf of the claimant under this chapter.

(c) After verification and review, the agency may disburse funds from the tuition recovery fund to settle or compromise the claims. However, the liability of the fund for claims against the closed entity shall not exceed that total amount of the contribution schedule assigned to that entity under subsection (5) of this section.

(d) The agency shall seek to recover such disbursed funds from the assets of the defaulted entity, including but not limited to asserting claims as a creditor in bankruptcy proceedings.

(10) When funds are disbursed to settle claims against a current licensee, the agency shall make demand upon the licensee for recovery. The agency shall adopt schedules of times and amounts acceptable for effecting recoveries. An entity's failure to perform subjects its license to suspension or revocation under RCW 28C.10.050 in addition to any other available remedies.

(11) A minimum operating balance of two hundred thousand dollars shall be maintained in the fund. If disbursements reduce the balance below two hundred thousand dollars, each participating entity shall be assessed a prorata share of the deficiency created, based upon the incremental scale created under subsection (5) of this section. The agency shall promptly adopt schedules of times and amounts acceptable for affecting payments of assessments. [1990 c 188 § 8; 1987 c 459 § 1.]

Severability—1990 c 188: See note following RCW 28C.10.020.

28C.10.090 Actions prohibited without license. A private vocational school, whether located in this state or outside of this state, shall not conduct business of any kind, make any offers, advertise or solicit, or enter into any contracts unless the private vocational school is licensed under this chapter. [1986 c 299 § 9.]

28C.10.100 Suspension or modification of requirements of chapter. The executive director of the agency may suspend or modify any of the requirements under this chapter in a particular case if the agency finds that:

(1) The suspension or modification is consistent with the purposes of this chapter; and

(2) The education to be offered addresses a substantial, demonstrated need among residents of the state or that literal application of this chapter would cause a manifestly unreasonable hardship. [1986 c 299 § 10.]

28C.10.110 Unfair business practices. It is an unfair business practice for a private vocational school or agent to:

(1) Fail to comply with the terms of a student enrollment contract or agreement;

(2) Use an enrollment contract form, catalog, brochure, or similar written material affecting the terms and conditions of student enrollment other than that previously submitted to the agency and authorized for use;

(3) Advertise in the help wanted section of a newspaper or otherwise represent falsely, directly or by implication, that the school is an employment agency, is making an offer of employment or otherwise is attempting to conceal the fact that what is being represented are course offerings of a school;

(4) Represent falsely, directly or by implication, that an educational program is approved by a particular industry or that successful completion of the program qualifies a student for admission to a labor union or similar organization or for the receipt of a state license in any business, occupation, or profession;

(5) Represent falsely, directly or by implication, that a student who successfully completes a course or program of instruction may transfer credit for the course or program to any institution of higher education;

(6) Represent falsely, directly or by implication, in advertising or in any other manner, the school's size, location, facilities, equipment, faculty qualifications, or the extent or nature of any approval received from an accrediting association;

(7) Represent that the school is approved, recommended, or endorsed by the state of Washington or by the agency, except the fact that the school is authorized to operate under this chapter may be stated;

(8) Provide prospective students with any testimonial, endorsement, or other information which has the tendency to mislead or deceive prospective students or the public regarding current practices of the school, current conditions for employment opportunities, or probable earnings in the occupation for which the education was designed;

(9) Designate or refer to sales representatives as "counselors," "advisors," or similar terms which have the tendency to mislead or deceive prospective students or the public regarding the authority or qualifications of the sales representatives;

(10) Make or cause to be made any statement or representation in connection with the offering of education if the school or agent knows or reasonably should have known the statement or representation to be false, substantially inaccurate, or misleading;

(11) Engage in methods of advertising, sales, collection, credit, or other business practices which are false, deceptive, misleading, or unfair, as determined by the agency by rule; or

(12) Attempt to recruit students in or within forty feet of a building that contains a welfare or unemployment office. Recruiting includes, but is not limited to canvassing and surveying. Recruiting does not include leaving materials at or near an office for a person to pick up of his or her own accord, or handing a brochure or leaflet to a person provided that no attempt is made to obtain a name, address, telephone number, or other data, or to otherwise actively pursue the enrollment of the individual.

It is a violation of this chapter for a private vocational school to engage in an unfair business practice. [1990 c 188 § 9; 1986 c 299 § 11.]

Severability—1990 c 188: See note following RCW 28C.10.020.

28C.10.120 Complaints—Investigations—Hearings—Remedies. (1) A person claiming loss of tuition or fees as a result of an unfair business practice may file a complaint with the agency. The complaint shall set forth the alleged violation and shall contain information required by the agency. A complaint may also be filed with the agency by an authorized staff member of the agency or by the attorney general.

(2) The agency shall investigate any complaint under this section and may attempt to bring about a settlement. The agency may hold a hearing pursuant to the Administrative Procedure Act, chapter 34.05 RCW, in order to determine whether a violation has occurred.

(3) If, after the hearing, the agency finds that the private vocational school or its agent engaged in or is engaging in any unfair business practice, the agency shall issue and cause to be served upon the violator an order requiring the violator to cease and desist from the act or practice and may impose the penalties under RCW 28C.10.130. If the agency finds that the complainant has suffered loss as a result of the act or practice, the agency may order full or partial restitution for the loss. The complainant is not bound by the agency's determination of restitution and may pursue any other legal remedy.

(4) If the agency prevails in any administrative hearing, the private vocational school shall pay the costs of the administrative hearing. [1990 c 188 § 10; 1989 c 175 § 83; 1986 c 299 § 12.]

Severability—1990 c 188: See note following RCW 28C.10.020.

Effective date—1989 c 175: See note following RCW 34.05.010.

28C.10.130 Violations—Civil penalties. Any private vocational school or agent violating RCW 28C.10.060, 28C.10.090, or 28C.10.110 or the applicable agency rules is subject to a civil penalty of not more than one hundred dollars for each separate violation. Each day on which a violation occurs constitutes a separate violation. Multiple violations on a single day may be considered separate violations. The fine may be imposed by the agency under RCW 28C.10.120, or in any court of competent jurisdiction. [1986 c 299 § 13.]

28C.10.140 Violations—Criminal sanctions. Any entity or any owner, officer, agent, or employee of such entity who wilfully violates RCW 28C.10.060 or 28C.10.090 is guilty of a gross misdemeanor and, upon conviction, shall be punished by a fine of not to exceed one thousand dollars

or by imprisonment in the county jail for not to exceed one year, or by both such fine and imprisonment.

Each day on which a violation occurs constitutes a separate violation. The criminal sanctions may be imposed by a court of competent jurisdiction in an action brought by the attorney general of this state. [1986 c 299 § 14.]

28C.10.150 Actions resulting in jurisdiction of courts. A private vocational school, whether located in this state or outside of this state, that conducts business of any kind, makes any offers, advertises, solicits, or enters into any contracts in this state or with a resident of this state is subject to the jurisdiction of the courts of this state for any cause of action arising from the acts. [1986 c 299 § 15.]

28C.10.160 Educational records—Permanent file—Protection. If any private vocational school discontinues its operation, the chief administrative officer of the school shall file with the agency the original or legible true copies of all educational records required by the agency. If the agency determines that any educational records are in danger of being made unavailable to the agency, the agency may seek a court order to protect and if necessary take possession of the records. The agency shall cause to be maintained a permanent file of educational records coming into its possession. [1986 c 299 § 16.]

28C.10.170 Contracts voidable—When. If a student or prospective student is a resident of this state at the time any contract relating to payment for education or any note, instrument, or other evidence of indebtedness relating thereto is entered into, RCW 28C.10.180 shall govern the rights of the parties to the contract or evidence of indebtedness. If a contract or evidence of indebtedness contains any of the following agreements, the contract is voidable at the option of the student or prospective student:

- (1) That the law of another state shall apply;
- (2) That the maker or any person liable on the contract or evidence of indebtedness consents to the jurisdiction of another state;
- (3) That another person is authorized to confess judgment on the contract or evidence of indebtedness; or
- (4) That fixes venue. [1986 c 299 § 17.]

28C.10.180 Enforceability of debts—Authority to offer degree required. A note, instrument, or other evidence of indebtedness or contract relating to payment for education is not enforceable in the courts of this state by a private vocational school or holder of the instrument unless the private vocational school was licensed under this chapter at the time the note, instrument, or other evidence of indebtedness or contract was entered into. [1986 c 299 § 18.]

28C.10.190 Actions to enforce chapter—Who may bring—Relief. The attorney general or the prosecuting attorney of any county in which a private vocational school or agent of the school is found may bring an action in any court of competent jurisdiction for the enforcement of this chapter. The court may issue an injunction or grant any other appropriate form of relief. [1986 c 299 § 19.]

28C.10.200 Injunctive relief—Agency may seek. The agency may seek injunctive relief, after giving notice to the affected party, in a court of competent jurisdiction for a violation of this chapter or the rules adopted under this chapter. The agency need not allege or prove that the agency has no adequate remedy at law. The right of injunction provided in this section is in addition to any other legal remedy which the agency has and is in addition to any right of criminal prosecution provided by law. The existence of agency action with respect to alleged violations of this chapter and rules adopted under this chapter does not operate as a bar to an action for injunctive relief under this section. [1986 c 299 § 20.]

28C.10.210 Violation of chapter unfair or deceptive practice under RCW 19.86.020. A violation of this chapter or the rules adopted under this chapter affects the public interest and is an unfair or deceptive act or practice in violation of RCW 19.86.020 of the consumer protection act. The remedies and sanctions provided by this section shall not preclude application of other remedies and sanctions. [1986 c 299 § 21.]

28C.10.220 Remedies and penalties in chapter nonexclusive and cumulative. The remedies and penalties provided for in this chapter are nonexclusive and cumulative and do not affect any other actions or proceedings. [1986 c 299 § 22.]

28C.10.900 Severability—1986 c 299. 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. [1986 c 299 § 27.]

28C.10.902 Effective date—1986 c 299. This act shall take effect July 1, 1986. [1986 c 299 § 31.]

28C.10.910 Schools registered under prior laws. A private vocational school registered under chapter 188, Laws of 1979, as amended, as of June 30, 1986, shall be considered to be licensed under chapter 28C.10 RCW until January 31, 1987. [1986 c 299 § 28.]

Chapter 28C.18

WORK FORCE TRAINING AND EDUCATION

Sections

- 28C.18.005 Findings.
- 28C.18.010 Definitions.
- 28C.18.020 Work force training and education coordinating board.
- 28C.18.030 Purpose of the board.
- 28C.18.040 Director's duties.
- 28C.18.050 Board designation for federal purposes—Monitoring state plans for consistency.
- 28C.18.060 Board's duties.
- 28C.18.900 Effective dates—Severability—1991 c 238.

Responsibilities for project DREAM: RCW 28A.630.750 through 28A.630.789.

28C.18.005 Findings. The legislature finds that the state's system of work force training and education is inadequate for meeting the needs of the state's workers, employers, and economy. A growing shortage of skilled workers is already hurting the state's economy. There is a shortage of available workers and too often prospective employees lack the skills and training needed by employers. Moreover, with demographic changes in the state's population employers will need to employ a more culturally diverse work force in the future.

The legislature further finds that the state's current work force training and education system is fragmented among numerous agencies, councils, boards, and committees, with inadequate overall coordination. No comprehensive strategic plan guides the different parts of the system. There is no single point of leadership and responsibility. There is insufficient guidance from employers and workers built into the system to ensure that the system is responsive to the needs of its customers. Adult work force education lacks a uniform system of governance, with an inefficient division in governance between community colleges and vocational technical institutes, and inadequate local authority. The parts of the system providing adult basic skills and literacy education are especially uncoordinated and lack sufficient visibility to adequately address the needs of the large number of adults in the state who are functionally illiterate. The work force training and education system's data and evaluation methods are inconsistent and unable to provide adequate information for determining how well the system is performing on a regular basis so that the system may be held accountable for the outcomes it produces. Much of the work force training and education system provides inadequate opportunities to meet the needs of people from culturally diverse backgrounds. Finally, our educational institutions are not producing the number of people educated in vocational/technical skills needed by employers.

The legislature recognizes that we must make certain that our institutions of education place appropriate emphasis on the needs of employers and on the needs of the approximately eighty percent of our young people who enter the world of work without completing a four-year program of higher education. We must make our work force education and training system better coordinated, more efficient, more responsive to the needs of business and workers and local communities, more accountable for its performance, and more open to the needs of a culturally diverse population. [1991 c 238 § 1.]

28C.18.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this title.

(1) "Board" means the work force training and education coordinating board.

(2) "Director" means the director of the work force training and education coordinating board.

(3) "Training system" means programs and courses of secondary vocational education, technical college programs and courses, community college vocational programs and courses, adult basic education programs and courses, programs and courses funded by the job training partnership act, programs and courses funded by the federal vocational

act, programs and courses funded under the federal adult education act, publicly funded programs and courses for adult literacy education, and apprenticeships, and programs and courses offered by private and public nonprofit organizations that are representative of communities or significant segments of communities and provide job training or adult literacy services.

(4) "Work force skills" means skills developed through applied learning that strengthen and reinforce an individual's academic knowledge, critical thinking, problem solving, and work ethic and, thereby, develop the employability, occupational skills, and management of home and work responsibilities necessary for economic independence.

(5) "Vocational education" means organized educational programs offering a sequence of courses which are directly related to the preparation or retraining of individuals in paid or unpaid employment in current or emerging occupations requiring other than a baccalaureate or advanced degree. Such programs shall include competency-based applied learning which contributes to an individual's academic knowledge, higher-order reasoning, and problem-solving skills, work attitudes, general employability skills, and the occupational-specific skills necessary for economic independence as a productive and contributing member of society. Such term also includes applied technology education.

(6) "Adult basic education" means instruction designed to achieve mastery of skills in reading, writing, oral communication, and computation at a level sufficient to allow the individual to function effectively as a parent, worker, and citizen in the United States, commensurate with that individual's actual ability level, and includes English as a second language and preparation and testing service for the general education development exam. [1991 c 238 § 2.]

28C.18.020 Work force training and education coordinating board. (1) There is hereby created the work force training and education coordinating board as a state agency and as the successor agency to the state board for vocational education. Once the coordinating board has convened, all references to the state board for vocational education in the Revised Code of Washington shall be construed to mean the work force training and education coordinating board, except that reference to the state board for vocational education in RCW 49.04.030 shall mean the state board for community and technical colleges.

(2)(a) The board shall consist of nine voting members appointed by the governor with the consent of the senate, as follows: Three representatives of business, three representatives of labor, and, serving as ex officio members, the superintendent of public instruction, the executive director of the state board for community and technical colleges, and the commissioner of the employment security department. The chair of the board shall be a nonvoting member selected by the governor with the consent of the senate, and shall serve at the pleasure of the governor. In selecting the chair, the governor shall seek a person who understands the future economic needs of the state and nation and the role that the state's training system has in meeting those needs. Each voting member of the board may appoint a designee to function in his or her place with the right to vote. In making appointments to the board, the governor shall seek

to ensure geographic, ethnic, and gender diversity and balance. The governor shall also seek to ensure diversity and balance by the appointment of persons with disabilities.

(b) The business representatives shall be selected from among nominations provided by a state-wide business organization representing a cross-section of industries. However, the governor may request, and the organization shall provide, an additional list or lists from which the governor shall select the business representatives. The nominations and selections shall reflect the cultural diversity of the state, including women, people with disabilities, and racial and ethnic minorities, and diversity in sizes of businesses.

(c) The labor representatives shall be selected from among nominations provided by state-wide labor organizations. However, the governor may request, and the organizations shall provide, an additional list or lists from which the governor shall select the labor representatives. The nominations and selections shall reflect the cultural diversity of the state, including women, people with disabilities, and racial and ethnic minorities.

(d) Each business member may cast a proxy vote or votes for any business member who is not present and who authorizes in writing the present member to cast such vote.

(e) Each labor member may cast a proxy vote for any labor member who is not present and who authorizes in writing the present member to cast such vote.

(f) The chair shall appoint to the board one nonvoting member to represent racial and ethnic minorities, women, and people with disabilities. The nonvoting member appointed by the chair shall serve for a term of four years with the term expiring on June 30th of the fourth year of the term.

(g) The business members of the board shall serve for terms of four years, the terms expiring on June 30th of the fourth year of the term except that in the case of initial members, one shall be appointed to a two-year term and one appointed to a three-year term.

(h) The labor members of the board shall serve for terms of four years, the terms expiring on June 30th of the fourth year of the term except that in the case of initial members, one shall be appointed to a two-year term and one appointed to a three-year term.

(i) Any vacancies among board members representing business or labor shall be filled by the governor with nominations provided by state-wide organizations representing business or labor, respectively.

(j) The board shall adopt bylaws and shall meet at least bimonthly and at such other times as determined by the chair who shall give reasonable prior notice to the members or at the request of a majority of the voting members.

(k) Members of the board shall be compensated in accordance with RCW 43.03.040 and shall receive travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(l) The board shall be formed and ready to assume its responsibilities under this chapter by October 1, 1991.

(m) The director of the board shall be appointed by the governor from a list of three names submitted by a committee made up of the business and labor members of the board. However, the governor may request, and the committee shall provide, an additional list or lists from which the governor shall select the director. The lists compiled by the commit-

tee shall not be subject to public disclosure. The governor may dismiss the director only with the approval of a majority vote of the board. The board, by a majority vote, may dismiss the director with the approval of the governor.

(3) The state board for vocational education is hereby abolished and its powers, duties, and functions are hereby transferred to the work force training and education coordinating board. All references to the director or the state board for vocational education in the Revised Code of Washington shall be construed to mean the director or the work force training and education coordinating board. [1991 c 238 § 3.]

28C.18.030 Purpose of the board. The purpose of the board is to provide planning, coordination, evaluation, monitoring, and policy analysis for the state training system as a whole, and advice to the governor and legislature concerning the state training system, in cooperation with the agencies which comprise the state training system, and the higher education coordinating board. [1991 c 238 § 4.]

28C.18.040 Director's duties. (1) The director shall serve as chief executive officer of the board who shall administer the provisions of this chapter, employ such personnel as may be necessary to implement the purposes of this chapter, and utilize staff of existing operating agencies to the fullest extent possible.

(2) The director shall not be the chair of the board.

(3) Subject to the approval of the board, the director shall appoint necessary deputy and assistant directors and other staff who shall be exempt from the provisions of chapter 41.06 RCW. The director's appointees shall serve at the director's pleasure on such terms and conditions as the director determines but subject to the code of ethics contained in chapter 42.18 RCW.

(4) The director shall appoint and employ such other employees as may be required for the proper discharge of the functions of the board.

(5) The director shall, as permissible under P.L. 101-392, as amended, integrate the staff of the council on vocational education, and contract with the state board for community and technical colleges for assistance for adult basic skills and literacy policy development and planning as required by P.L. 100-297, as amended. [1991 c 238 § 5.]

28C.18.050 Board designation for federal purposes—Monitoring state plans for consistency. (1) The board shall be designated as the state board of vocational education as provided for in P.L. 98-524, as amended, and shall perform such functions as is necessary to comply with federal directives pertaining to the provisions of such law.

(2) The board shall monitor for consistency with the state comprehensive plan for work force training and education the policies and plans established by the state job training coordinating council, the advisory council on adult education, and the Washington state plan for adult basic education, and provide guidance for making such policies and plans consistent with the state comprehensive plan for work force training and education. [1991 c 238 § 6.]

28C.18.060 Board's duties. The board, in cooperation with the operating agencies of the state training system shall:

(1) Concentrate its major efforts on planning, coordination, evaluation, policy analysis, and recommending improvements to the state's training system.

(2) Advocate for the state training system and for meeting the needs of employers and the work force for work force education and training.

(3) Establish and maintain an inventory of the programs of the state training system, and related state programs, and perform a biennial assessment of the vocational education, training, and adult basic education and literacy needs of the state; identify ongoing and strategic education needs; and assess the extent to which employment, training, vocational and basic education, rehabilitation services, and public assistance services represent a consistent, integrated approach to meet such needs.

(4) Develop and maintain a state comprehensive plan for work force training and education, including but not limited to, goals, objectives, and priorities for the state training system, and review the state training system for consistency with the state comprehensive plan. In developing the state comprehensive plan for work force training and education, the board shall use, but shall not be limited to: Economic, labor market, and populations trends reports in office of financial management forecasts; joint office of financial management and employment security department labor force, industry employment, and occupational forecasts; the results of scientifically based outcome, net-impact and cost-benefit evaluations; the needs of employers as evidenced in formal employer surveys and other employer input; and the needs of program participants and workers as evidenced in formal surveys and other input from program participants and the labor community.

(5) In consultation with the higher education coordinating board, review and make recommendations to the office of financial management and the legislature on operating and capital facilities budget requests for operating agencies of the state training system for purposes of consistency with the state comprehensive plan for work force training and education.

(6) Provide for coordination among the different operating agencies of the state training system at the state level and at the regional level.

(7) Develop a consistent and reliable data base on vocational education enrollments, costs, program activities, and job placements from publicly funded vocational education programs in this state.

(8) Establish standards for data collection and maintenance for the operating agencies of the state training system in a format that is accessible to use by the board. The board shall require a minimum of common core data to be collected by each operating agency of the state training system.

The board shall develop requirements for minimum common core data in consultation with the office of financial management and the operating agencies of the training system.

(9) Establish minimum standards for program evaluation for the operating agencies of the state training system, including, but not limited to, the use of common survey instruments and procedures for measuring perceptions of

program participants and employers of program participants, and monitor such program evaluation.

(10) Every two years administer scientifically based outcome evaluations of the state training system, including, but not limited to, surveys of program participants, surveys of employers of program participants, and matches with employment security department payroll and wage files. Every five years administer scientifically based net-impact and cost-benefit evaluations of the state training system.

(11) In cooperation with the employment security department, provide for the improvement and maintenance of quality and utility in occupational information and forecasts for use in training system planning and evaluation. Improvements shall include, but not be limited to, development of state-based occupational change factors involving input by employers and employees, and delineation of skill and training requirements by education level associated with current and forecasted occupations.

(12) Provide for the development of common course description formats, common reporting requirements, and common definitions for operating agencies of the training system.

(13) Provide for effectiveness and efficiency reviews of the state training system.

(14) In cooperation with the higher education coordinating board, facilitate transfer of credit policies and agreements between institutions of the state training system, and encourage articulation agreements for programs encompassing two years of secondary work force education and two years of postsecondary work force education.

(15) In cooperation with the higher education coordinating board, facilitate transfer of credit policies and agreements between private training institutions and institutions of the state training system.

(16) Participate in the development of coordination criteria for activities under the job training partnership act with related programs and services provided by state and local education and training agencies.

(17) Make recommendations to the commission of student assessment, the state board of education, and the superintendent of public instruction, concerning basic skill competencies and essential core competencies for K-12 education. Basic skills for this purpose shall be reading, writing, computation, speaking, and critical thinking, essential core competencies for this purpose shall be English, math, science/technology, history, geography, and critical thinking. The board shall monitor the development of and provide advice concerning secondary curriculum which integrates vocational and academic education.

(18) Establish and administer programs for marketing and outreach to businesses and potential program participants.

(19) Facilitate the location of support services, including but not limited to, child care, financial aid, career counseling, and job placement services, for students and trainees at institutions in the state training system, and advocate for support services for trainees and students in the state training system.

(20) Facilitate private sector assistance for the state training system, including but not limited to: Financial assistance, rotation of private and public personnel, and vocational counseling.

(21) Facilitate programs for school-to-work transition that combine classroom education and on-the-job training in industries and occupations without a significant number of apprenticeship programs.

(22) Encourage and assess progress for the equitable representation of racial and ethnic minorities, women, and people with disabilities among the students, teachers, and administrators of the state training system. Equitable, for this purpose, shall mean substantially proportional to their percentage of the state population in the geographic area served. This function of the board shall in no way lessen more stringent state or federal requirements for representation of racial and ethnic minorities, women, and people with disabilities.

(23) Participate in the planning and policy development of governor set-aside grants under P.L. 97-300, as amended.

(24) Administer veterans' programs, licensure of private vocational schools, the job skills program, and the Washington award for vocational excellence.

(25) Allocate funding from the state job training trust fund.

(26) Adopt rules as necessary to implement this chapter.

The board may delegate to the director any of the functions of this section. [1991 c 238 § 7.]

28C.18.900 Effective dates—Severability—1991 c 238. See RCW 28B.50.917 and 28B.50.918.

Chapter 28C.20

WASHINGTON STATE COUNCIL ON VOCATIONAL EDUCATION

Sections

28C.20.010 Council created—Work force training and education coordinating board to monitor.

28C.20.020 Membership of council.

28C.20.030 Functions consistent with state comprehensive plan for work force training and education.

28C.20.900 Effective dates—Severability—1991 c 238.

28C.20.010 Council created—Work force training and education coordinating board to monitor. (1) There is hereby created the Washington state council on vocational education for so long as a state council is required by federal law or regulation as a condition for receipt of federal funds. The council on vocational education shall perform all duties of councils on vocational education as specified in P.L. 101-392, as amended.

(2) The work force training and education coordinating board shall monitor the need for the council as described in subsection (1) of this section, and, if that need no longer exists, propose legislation to terminate the council. [1991 c 238 § 16.]

28C.20.020 Membership of council. Current members of the Washington state council on vocational education appointed pursuant to P.L. 98-524, as amended, shall serve as the state council on vocational education for purposes of this chapter until new appointments are made consistent with this section. New appointments to the state council on vocational education shall be made by July 1, 1991. The

council on vocational education shall consist of thirteen members appointed by the governor consistent with the provisions of P.L. 101-392, as amended. In making these appointments, to the maximum extent feasible, the governor shall give consideration to providing overlapping membership with the membership of the state job training coordinating council. [1991 c 238 § 17.]

28C.20.030 Functions consistent with state comprehensive plan for work force training and education. The council on vocational education shall perform its functions consistent with the state comprehensive plan for work force training and education prepared by the work force training and education coordinating board as provided for in RCW 28C.18.060. [1991 c 238 § 18.]

28C.20.900 Effective dates—Severability—1991 c 238. See RCW 28B.50.917 and 28B.50.918.

Notes